



Customs & Immigration

Financial Sanctions Guidance: Frequently Asked Questions

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These FAQs set out the Treasury's general approach to common questions, taking into account the range of sanctions in place at the time of publication. They do not contain specific guidance for every situation.

You should also:

- review the up-to-date legislation that applies in your situation;
- consider taking independent legal advice if you are unsure of your obligations.

Each case referred to the Treasury will be considered on its own facts. If you think that the circumstances of, or legislation relating to, your specific situation produces a different outcome to the answers provided below, you can raise this with the Treasury.

References to 'You' in these FAQs are references to all persons to which each section is addressed. Questions are posed from the point of view of those persons.



Part 1 Compliance for designated persons

1.1 Individuals

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

Generally, you can be paid interest on your bank account or savings. There are normally express provisions to allow financial institutions to do this, provided your account is frozen. Alternatively, a licence can be issued by the Treasury to permit this.

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, a licence issued by the Treasury is needed to make this payment.

Can I have a debit card?

You are not prohibited from having a debit card but its use will only be permitted where there is a relevant exemption or a licence issued by the Treasury. It is the financial institution's decision on whether it is willing to give you a debit card or maintain your access to existing debit cards. If you are designated under the Terrorism and Other Crime (Financial Restrictions) Act 2014 ("TOCFRA2014"), you need a licence to use a debit card.

Can I have a pre-paid card?

You will need a relevant exemption or a licence issued by the Treasury to load and use a pre-paid card.

Can I have a credit card?

Any existing credit cards must be frozen. You will need a relevant exemption or a licence issued by the Treasury to be given a new credit card or to use any credit card. If you are designated under TOCFRA2014, you need a licence to use a credit card.



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Can I use vouchers, coupons or reward points to pay for things?

Vouchers, coupons or reward points are considered to be funds and fall within the asset freeze. Therefore, you need an exemption or a licence issued by the Treasury to accept and use vouchers, coupons or reward points. If you are designated under TOCFRA2014, you need a licence to use vouchers, coupons, or reward points.

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 following before it decides whether to allow another signatory to access the funds in the account:

- 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 use the funds in this way or release the funds to other non-designated signatories to the account;
- whether there is a licence issued by the Treasury.

Can I let someone pay a bill for me?

Generally, you will need an exemption or a licence issued by the Treasury to let someone else pay a bill for you, where payment of the bill means that you receive a financial benefit. That includes the benefit of not having to pay the bill. For example, it is generally permitted for someone to pay for your share of a meal without a licence.

However, paying your monthly utility bill will require a licence. If you are designated under TOCFRA2014, and receive a significant financial benefit as the result of such a payment, you need a licence before the payment can be made.

Can I take out insurance?

Generally, you can take out insurance. The payment of claims is permitted where the payment is exempt or a licence has been granted. If you are subject to any other asset freeze, providing insurance is not prohibited, but you need an exemption or to apply for a licence to pay premiums or receive claim payments.



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Can I invest my funds?

Generally you cannot actively invest your funds, or move them from one account to another, to get a better rate of interest. The exemptions or existing licensing grounds found in UK Regulations applicable to the IOM are unlikely to allow such activity to be permitted. Applications for licences in relation to asset freezes imposed by IOM law will need to demonstrate that such activity is in line with the licensing policy for that regime.

I jointly own an asset. Can I transfer my ownership?

You cannot transfer ownership of an asset without an exemption or a licence.

Can I avoid paying my debts?

You can apply for a licence from the Treasury to make payments to cover obligations incurred prior to your designation. Therefore, if a licence is granted, you can't use the fact that your assets are frozen for not paying your debts. If you enter into a contract after designation without having a licence, you may be breaching sanctions. If you do not have a 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 committed fraud.

Can I take employment?

Financial sanctions do not prevent you from taking employment. However, you need an exemption or a licence issued by the Treasury in order to be paid and those funds need to be paid into a frozen account. Under TOCFRA2014, there is an exemption to the prohibition on making funds or financial services available for the benefit of a designated person. This includes the payment of social security benefits to a non-designated person, whether or not the payment is made in respect of the designated person (see section 50 of TOCFRA2014).

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

You may use your assets for your own personal use but not to generate income unless you have a licence issued by the Treasury. For example, you may use your car to do grocery shopping and your house as your personal residence. However, you cannot use your car to generate income, e.g. as a courier, or rent your house to someone, without a licence.



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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 UK Regulations that are applicable to the IOM, it is the Treasury's view that the basic needs licensing ground only requires one residence to be maintained for use. Licences may be granted for routine maintenance and fees associated with holding other properties. However, this is limited to what is strictly necessary to prevent the property from deteriorating. If you are subject to an asset freeze imposed by IOM law, you need to demonstrate that such activity is in line with the licensing policy for the regime.

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 UK regulations that are applicable to the IOM, it is the Treasury's view that, generally, private education will not be considered to be a basic need where there is a suitable state school alternative available. There may be licensing grounds which permit the payment of private school fees to the end of any current contract, or to the end of the academic year, to minimise disruption to the child. The Treasury will judge licence requests on a case-by-case basis, taking into account the needs of the children. If you're subject to an asset freeze imposed by IOM law, you need to demonstrate that such payments are in line with the licensing policy for the regime.

Can I use frozen funds to go on holiday?

You need a licence issued by the Treasury to use frozen funds to pay for a holiday. If you wish to use frozen funds, you need to apply for a licence based on the available licensing grounds.

Can I use un-frozen funds from outside of the UK in the Island?

You need a licence because all your funds, or funds made available to you, must be frozen when they enter the UK (which for this purpose includes the IOM). The Treasury considers applications for licences to use funds in these circumstances on the same basis as if the funds had initially been held in the IOM.



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Can I use frozen money in the Island to pay for things outside of the UK?

You may be permitted to use frozen funds in the IOM to pay for expenses outside of the UK under a licence issued by the Treasury. Generally, the Treasury will require you to demonstrate that you do not have access to unfrozen funds outside of the UK to meet those expenses before we decide whether to issue a licence.

What reporting obligations apply to me?

The Treasury or the FIU may ask you for information about your assets and your financial activities as part of our 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 result in a criminal prosecution or a monetary penalty, or both.

1.2 Entities and organisations

If your business is subject to an asset freeze, its continued existence is not prohibited but its operations are strictly limited under the asset freeze.

Can I still pay my suppliers and staff?

You need a licence issued by the Treasury to pay existing staff and suppliers. The asset freeze may limit the number of staff and suppliers you continue to need as well as your ability to hire new staff or engage new suppliers.

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 designation, will generally need a 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. This is likely to limit the amount of activity you can undertake with new customers.



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Can I still receive goods from my suppliers?

You may be able to obtain a licence, in limited circumstances, to receive goods from your suppliers. These circumstances are likely to be limited to ensuring that your business's continued existence is not imperilled.

Can I invest my profits?

Generally, your business will 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, the Treasury's view is that limited portfolio management may be permitted, under the 'basic needs' licensing ground, to ensure that the business is not imperilled. Applications for licences in relation to asset freezes imposed by IOM law will need to demonstrate that such activity falls under a relevant licensing ground for the regime.

Can I pay dividends to shareholders?

You may be able to pay dividends to shareholders under a licence.

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, payments may be made into your frozen account without a licence where there is a relevant exemption. You need a licence to issue new equity or debt. The existing licensing grounds under asset freezes imposed by UK Regulations which are applicable to the IOM, and licensing policy for asset freezes imposed by IOM law, are unlikely to permit the issuing of new equity or debt except in the most exceptional circumstances.

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.



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 need a licence to enable payments to be made, and activities undertaken, to ensure that business premises remain safe. The Treasury considers that existing licensing grounds under asset freezes imposed by UK Regulations which are applicable to the IOM, and licensing policy for asset freezes imposed by IOM law, are unlikely to permit significant refurbishment for presentational or business promotion reasons.

Can I manage a property portfolio?

You need a licence to manage a property portfolio. The existing licensing grounds in relation to asset freezes imposed by UK regulations which are applicable to the IOM are unlikely to allow such activity to be permitted. However, if the nature of the business which has been designated is property management, the Treasury's view is that limited portfolio management may be permitted under the 'basic needs' licensing ground, to ensure that the business is not imperilled. Applications for licences in relation to asset freezes imposed by IOM law will need to demonstrate that such activity is in line with the licensing policy for the regime.

Can I obtain insurance?

Generally, you can take out insurance. The payment of premiums, however, will require a licence. If you are subject to any other asset freeze, the provision of insurance is not prohibited. However, you need a licence to pay any premiums and for receipt of any claims payment.

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

You will need a licence to release funds to customers.

What reporting obligations apply to me?

The Treasury or FIU may ask you for information about your assets and your financial activities as part of its 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(s) and all receipts each month.

Failure to comply with reporting requirements may result in criminal prosecution or a monetary penalty, or both.



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Part 2 Compliance for family, friends and members of the public

If you undertake an act 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, you have breached financial sanctions and may face criminal prosecution or a monetary penalty, or both.

If you are unsure about your obligations, you should consider seeking independent legal advice or contact the Sanctions Officer at the Customs and Excise Division.

Can I give or lend money to a designated person?

You almost certainly need a licence.

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

Can I give a designated person a gift?

You cannot give a gift of cash, vouchers or other funds without a licence. The Treasury's view is 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. However, if the items are of a higher value or could be used or sold onward to generate income, e.g. a theatre/sporting ticket or a mobile phone, you will require a licence.



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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. However, 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 for which you require a 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 a licence. However, purchasing an item of furniture, or a whole season's worth of clothing for the child, will require a licence.

Can I loan something to a designated person?

You can loan an item to a designated person without a licence if the item is not funds and is for personal use by the designated person, unless the extent or value of the loan is significant. However, if the item represents a significant benefit to the designated person or can be used to generate income, a 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.

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

You can give or pay for a meal or a drink for a designated person's personal consumption. However, if you are regularly providing meals to a designated person or buying them groceries, this requires a licence.

Can I pay for a designated person's travel or give them my travel card?

You need a licence because a travel card (e.g. Oyster card) is a pre-paid card and equates to the provision of funds. You need a licence to pay for a designated person's travel if they would receive a significant financial benefit as a result. For example, you may make a one-off payment for local public transport without a licence. However, long- distance travel, weekly tickets or repeated payments for short trips require a licence.

Can I pay for a designated person's accommodation?

You probably need a licence as this may represent the indirect provision of funds to the designated person.



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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 a licence. However, you should contact the Treasury in such circumstances. The Treasury also considers that allowing a person to share your hotel room or similar accommodation that you have paid for, on a temporary basis, does not require a licence, provided you are staying there as well. However, you need a licence if you are providing access to accommodation to a designated person for free over a prolonged period of time.

I work for a designated person. What do sanctions mean for me?

Your employer will need a licence to pay your salary and expenses. You 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 licence in place for the business to ensure you comply with the licence. Failure to comply with the terms of the licence may result in criminal prosecution or a monetary penalty, or both. 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.

I bought goods from a designated person. Can I still receive them?

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

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;
- relevant sanctions regime contains a relevant exemption.



A designated person owes me money. Can I get it back?

You need a licence to allow the designated person to pay you. There are clear licensing 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 a licence in place, you should contact the Treasury for advice. A licence does not compel a person to make a payment. If the designated person does not wish to pay you, you may need to take legal action to enforce the debt. Instituting legal action is not prohibited by sanctions. However, you may need a licence to enforce any judgement or settlement agreement.

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 for obligations arising under a contract prior to them being designated, if the relevant sanctions regime contains such an exemption. A licence granted in respect of the contract would enable you to complete on the contract. If you do not want to complete on the contract, or are in dispute about whether you have completed the contract, it is not a breach of sanctions for the designated person to bring a claim against you. However, they would need a licence to pay legal representatives or to enforce any judgment 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 UK Regulations applicable in the IOM, 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 a licence is available to allow you to undertake that action.

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 needs to consider the following before they can decide whether to allow you to access the funds in the account:

- 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;
- whether there is a licence.

Where joint-ownership or control applies, you require a licence to access the funds.



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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. The Treasury considers that existing licensing grounds under asset freezes, imposed by UK Regulations applicable in the IOM, are unlikely to permit the sale of your share to:

- the designated person; or
- a third party who has agreed to hold it for the benefit of the designated person.

For asset freezes imposed by IOM law, an application for a licence would be considered on a case-by-case basis.

I own shares in a designated person. Can I sell those shares?

You can sell your shares on the secondary market without a licence provided that the sale will not result in funds or economic resources being made available to the designated person. The Treasury considers that existing licensing grounds under asset freezes imposed by UK Regulations applicable in the IOM are unlikely to permit the sale of your share to:

- the designated person; or
- a third party who has agreed to hold it for the benefit of the designated person.

For asset freezes imposed by IOM law, an application for a licence would be considered on a case-by-case basis.

I own shares in a designated person. Can they pay me a dividend?

The designated person needs a licence to pay you a dividend. As the asset freeze restricts the manner in which the business can operate after designation, the ability to pay dividends may also be limited.

I have a licence but my bank won't process the payment. What can I do?

A 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 a licence.



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What reporting obligations apply to me?

When a person is designated under legislation in the IOM, the IOM 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 the FIU, including information about the funds and economic resources that have been frozen.

For all regimes, the Treasury, or the FIU, may request information from you to:

- establish the extent of funds and assets belonging to a designated person;
- monitor compliance and detect evasion;
- obtain evidence of the commission of an offence.

Specific reporting requirements will often be included in licences. Failure to comply with a request for information may result in a criminal prosecution or a monetary penalty, or both. If you are unclear on what you need to provide, please contact us or seek independent legal advice.



Part 3 Compliance for businesses and financial institutions

3.1 Business in general

How do I manage my sanctions risk?

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

The Treasury's view is that financial sanctions are generally widely publicised and that businesses, particularly those operating internationally, will have reasonable cause to suspect that sanctions might be relevant to them. Therefore, they will not be able to avoid liability simply by failing to consider their sanctions risks. The Treasury 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;
- 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 can live and operate in the UK and the Island. 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;
- specific prohibitions which also need to be expressly considered.

The Treasury 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 Sanctions Lists is required. A Financial Sanctions search website can be found at <https://sanctionssearchapp.ofsi.hmtreasury.gov.uk> and includes fuzzy matching search facilities using the sanctions lists.

If you decide that individual checks using an e-verification provider or 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 Sanctions lists?
- how often does the search facility or screening software update the list?
- does the search facility or screening software offer fuzzy matching, enabling differences in spelling, name reversal and number removal to be identified?



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You may also wish to consider the supplementary guidance provided by the Gambling Supervision Commission on customer and transaction screening.

If you are unsure 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.

Can I talk to 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 most cases, the fact that a person is subject to sanctions is a matter of public record. If you have been informed by the Treasury that a person is subject to a designation under TOCFRA2014; and that the Treasury has 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 33 of that Act; and
- not disclose the confidential information without lawful authority.

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. Contravention of this prohibition is a criminal offence.

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, a licence is needed for you to receive the goods.

I sold goods to a designated person. Can I still deliver them?

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



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A designated person owes me money. Can I recover it?

You need a licence to allow the designated person to pay you. If the asset freeze relates to a regime implemented at UK level, there are likely to be clear licensing 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 a licence in place, or the asset freeze relates to any of the IOM asset freeze regimes (including TOCFRA2014), please contact the Treasury for further advice. A licence does not compel a person to make a payment. If the designated person does not wish to pay you, you may need to take legal action to enforce the debt. Instituting legal action is not prohibited by sanctions. However, you need a licence to enforce any judgment or settlement agreement.

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 a licence, you should contact the Treasury for advice.

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 can 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. A 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 in 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 a licence to enforce any judgment in their favour. If the designated person is subject to an asset freeze imposed by UK regulations applicable in the IOM, you can't incur liability for failing to undertake an action, if financial sanctions prevent you from undertaking that action. This protection will not apply where a licence is available to allow you to undertake that action.

A designated person owes me money. Can I write it off?

You need a licence to write off a debt.



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

You will need a licence to set off the debt.

Can I provide goods or services to a designated person?

You will generally need a licence to make goods available to a designated person. However, if the goods are of low value and purely for personal consumption, such as food, water, or electricity or gas for domestic use, you may provide these goods without a licence. However, if you are regularly providing such goods to a designated person, you require a licence. In all cases, the designated person needs a licence to pay you for goods. The provision of services, except in the case of certain financial services, e.g. under TOCFRA2014, are not prohibited by sanctions. However, where you provide services on credit, you are creating a debt and will need a licence to do so. In all cases, the designated person will need a licence to pay you for services.

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

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

I've made a mistake in how I charged a designated person or realised I gave them poor service. Can I fix my accounting mistake, reimburse my over-charging or give them a refund?

You need a 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, a licence is not required. This is provided the legislation which imposes the asset freeze has the relevant exemption.



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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 will depend on whether the relevant prohibitions would be infringed. We encourage you to seek independent legal advice if you wish to re-consider your contractual position with a designated person. You may need a licence to amend or extend an existing contract with a designated person but this may not be possible in all circumstances. While the contract may not be an economic resource, the amendment or extension of the contract, or the actions it permits, are likely to involve dealing in funds or economic resources. If the original contract specifically permitted the amendment or extension requested it may be possible to issue a licence under a prior contract licensing ground. In all other cases, an alternative licensing ground will need to be identified for the amendment or extension to take place.

Can I employ a designated person?

Yes, but you may need a licence to pay their salary or related expenses. This depends on the terms of their employment and when it began. We encourage you to seek independent legal advice or contact the Treasury if you are unclear about needing a licence.

I jointly own a business with a designated person. Is the whole business subject to sanctions?

You are likely to need a 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. Therefore, 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 licence, which is something that businesses might do. The extent to which you can operate your business under the asset freeze is more restricted than prior to your co-owners' designation. We encourage you to seek independent legal advice, or to contact the Treasury, if you are unclear about needing a licence.

Also see sections 6 and 7 for further details about ownership, control and complex structures.



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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 the Treasury prior to entering into any agreement to dispose of your share.

The Treasury considers that existing licensing grounds, under asset freezes imposed by UK regulations applicable in the IOM, 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 TOCFRA2014, an application for a licence would be considered on a case-by-case basis.

A designated person owns shares in the business. Can we sell the business?

You 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 or for the benefit of a designated person, is prohibited. If the sale would make funds or economic resources available to a designated person, the Treasury considers that existing licensing grounds, under asset freezes imposed by UK regulations applicable in the IOM, are unlikely to permit such a sale. For domestic asset freezes imposed by IOM law, an application for a licence would be considered on a case-by-case basis.

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

A licence does not compel any party to make a payment. If the bank has not seen your licence, it may help to 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 a licence.



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What are my reporting requirements?

When a person is designated in the IOM, the IOM 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 the FIU, including information about the funds and economic resources that have been frozen. For all regimes, the Treasury, or FIU, may request information from you to:

- establish the extent of funds and assets belonging to a designated person;
- monitor compliance and detect evasion;
- obtain evidence of the commission of an offence.

Specific reporting requirements will often be included in licences. Failure to comply with a request for information may result in a criminal prosecution or a monetary penalty, or both. If you are unclear on what you need to provide, please contact us or seek independent legal advice.

3.2 Financial sector

What is the role of the Isle of Man FSA in financial sanctions compliance?

The Isle of Man FSA's Anti-Money Laundering and Countering the Financing of Terrorism Handbook outlines the expectations for licence holders and designated businesses regarding checks to be undertaken to determine if customers (including beneficial owners and controllers where appropriate) are subject to sanctions and to consider sanctions when risk assessing and monitoring customers. The Isle of Man FSA assesses the effectiveness of this during supervisory and oversight visits.

Can I close or transfer the accounts of a designated person?

You may need a licence to close or transfer an account of a designated person. The existing licensing grounds, imposed by UK Regulations applicable in the IOM, to permit such an action are limited. Whether they can be used will depend on the specific circumstances of the case. Applications for licences in relation to asset freezes, imposed by IOM law, will need to demonstrate that such activity is in line with the licensing policy for the regime.



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

Generally, you will 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 a 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 TOCFRA2014. You must advise the FIU of any of the above transactions immediately. You may credit other payments to a frozen account in accordance with a licence.

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

You can credit interest without a licence, where the legislation imposing the asset freeze has the relevant exemption. You cannot apply negative interest rates to the account of a designated person without a licence.

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, you can make corrections without a licence. This is provided that the legislation imposing the asset freeze contains the relevant exemption. Otherwise, you will need a licence. You must advise the FIU of the transaction immediately.

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

You must freeze existing accounts and the credit cards of a designated person. A 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 a licence is required for its use. If you decide to provide debit or credit cards to a designated person, you should have systems and controls in place to enable you to satisfy yourself that the use of the card(s) is restricted to what is permitted by the licence. If you decide to provide debit or credit cards to a designated person under TOCFRA2014, you need a licence to use a credit or debit card.



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

Funds arriving in the Island, which have come from or via a designated person based outside the UK, must be frozen on arrival in the IOM. This policy follows UK policy, and complies with case-law of the European Court of Justice. For further relevant guidance please see HM Treasury's policy.

Funds can only be released if a licence is obtained.

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. This is because a safety deposit box or 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 the FIU 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 the FIU should make that clear. Boxes do not need to be opened or searched before a report is made. Furthermore, you must not let the designated person access their safety deposit box or secure storage facilities without a licence.



3.3 Insurance sector

An asset freeze imposed by UK Regulations do not generally ban the provision of insurance. However, insurance payments to and from designated persons require a licence.

There are certain restrictions on the provision of insurance:

- where a person has been designated under TOCFRA2014;
- to certain Syrian entities in specific circumstances;
- for specific trade transactions which are prohibited by sanctions.

TOCFRA2014

A licence may be granted by the Treasury. See section 8 and Annex B for further details on applying for a licence.

Syria

You are required to discontinue insurance in the circumstances set out under the Syrian sanctions regime. For further information prior to 11:00pm, 31 December 2020, see Council Regulation (EU) 36/2012.

There are no licensing grounds available in relation to prohibited insurance under the Syria financial sanctions regime.

Trade sanctions

For information on restrictions on providing insurance and reinsurance where trade sanctions apply, see Notice 279 Man – Export and Trade Controls, or contact Customs and Excise.



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Who is responsible for sanctions compliance in an insurance chain?

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

Insurers, re-insurers and underwriters

The Treasury's view is that you should undertake reasonable enquiries to identify whether the underlying clients or claimants may be designated persons. You should also consider your arrangements with introducers and other parties to:

- maximise the level of information provided when providing cover;
- 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 sanctions compliance policies;
- requiring positive affirmation from their introducers on their financial sanctions systems and controls.

Where detailed information cannot be obtained, it may be appropriate for you to screen the partial information you hold on a more targeted basis. For example, this could involve screening:

- IOM/UK-focused businesses against designated persons resident in the IOM/UK only;
- non-IOM/UK businesses against entries that correspond to the jurisdiction where the underlying client or claimant is suspected to reside.

Agents and brokers

Given that you usually deal directly with clients, the Treasury's view is that you should be well placed to obtain sufficient information to conduct appropriate sanctions checks against clients and insurance beneficiaries when cover is issued. The specific requirements that an insurer or underwriter applies to you in respect of sanctions compliance are a matter for the parties to contract.



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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 is with the employer and the employer will provide the benefits to the employees in line with their contracts of employment.

The Treasury's view is that 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 – the Treasury expects you to conduct sanctions checks on the employee details.

What should I do if a person becomes designated after I've agreed to insure them?

An asset freeze imposed by UK regulations do not:

- void any insurance cover that the designated person had at the time of their designation;
- require you to discontinue the provision of insurance.

In addition, you won't be required to discontinue insurance issued to a person, designated under TOCFRA2014, where:

- a general licence permits the insurance to continue;
- a specific licence is issued for the policy.

If you are making an assessment on whether 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:

- not subject to any restriction;
- permitted under a general licence.

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

You require a licence. This applies whether you:

- insure the designated person;
- are paying out a claim in favour of the designated person on behalf of a third party that you insure.



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

If the provision is to a person designated under TOCFRA2014, a general licence may apply.

For all other asset freezes, the Treasury's view is that the following don't involve making an economic resource available to a designated person if the provision of the asset is:

- of limited duration, e.g. less than one week;
- for personal consumption, e.g. personal use of the vehicle rather than business use of the vehicle.

If you are providing the asset beyond that timeframe or for business use, you need a licence. You should mark the application as urgent and the Treasury will endeavour to provide an indication on approach within one working day.

3.4 Legal sector

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

Yes, you can provide legal advice to or act for a designated person but you cannot receive any payment for that advice without obtaining a licence from the Treasury. Payment of legal fees or expenses by a designated person using frozen funds or by a third party on behalf of the designated person is prohibited as this involves dealing with frozen funds or making funds available indirectly to, or for the benefit of a designated person. Without a licence the payment would be in breach of financial sanctions and constitute a criminal offence.

The Treasury can only authorise payment of reasonable legal fees for legal services provided to a designated person. We therefore strongly encourage you to apply for a licence in advance of providing substantive legal services in order for you to have early certainty as to the fees that will be recoverable whilst the designated person(s) remains listed.

You must obtain a licence from the Treasury to allow any prohibited activity to take place without breaching financial sanctions. Although a licence is not required to provide legal advice to a designated person nor the provision of legal services in general, a licence is needed to allow for the payment of legal fees and expenses to be lawfully made. Certain legal services, such as the provision of company formation services, may constitute the provision of 'financial services' prohibited under TOCFRA2014.



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Also, where sanctions prohibit specific actions, e.g. restructuring of finance, you need to carefully consider whether your advice and support for the client is helping them comply with sanctions or is participating in or facilitating a breach. For example, if it is prohibited to raise capital on UK markets, providing advice on how this affects a business will be permitted. However, preparing documents to raise such capital may amount to an attempt to circumvent sanctions.

How quickly must I apply for a licence?

A licence must be applied for in advance of payment of the fees. No funds should be taken on account or disbursements paid until a licence is granted. Financial sanctions legislation permits the Treasury to issue licences for the payment of reasonable professional legal fees or the reimbursement of legal services expenses. You should not assume that a licence will be granted permitting payment of the fees and expenses you propose to charge as the Treasury will only authorise the payment of reasonable legal fees. Fees that are not determined to be reasonable or to relate to actual legal fees will not be licensable under the legal fees licensing ground. To mitigate this risk and manage your expectations around payment we strongly recommend that a licence is applied for before the legal work commences or as early as possible once you have started to act for the client. Licence applications for payment of legal fees or expenses (both estimated and incurred) are carefully scrutinised to ensure that the proposed amounts are reasonable. The applicant has the opportunity throughout the application process to justify that the requested fees are reasonable in relation to the nature, volume and complexity of the work.

Do I have to freeze the client's money?

You must freeze any funds or economic resources 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 move the funds from a pooled client account to a designated client account in the IOM to freeze the funds. You can do this without a licence but you should alert the FIU as soon as you have done so. Interest may be credited to the account in accordance with the Isle of Man Law Society Rules.

This is provided that the credited interest is also frozen and that the legislation contains the relevant exemption.



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

You need a licence.

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

What fees and disbursements can be licensed?

Under an asset freeze, imposed by UK regulations, the Treasury is only permitted to licence the release of frozen funds of the payment of reasonable legal fees and disbursements related to the provision of legal services.

The licensing ground does not permit payments for 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.

What are considered 'reasonable' legal fees and disbursements?

It is for you to demonstrate to the Treasury that the legal fees and disbursements are reasonable. You should:

- provide an estimate of the likely fees;
- break down how these will be charged in the application;
- identify significant disbursements, such as payments for counsel and expert witnesses.

The Treasury considers that 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 need to demonstrate why those increased fees are reasonable in the given case.

How many law firms can I instruct?

Generally, the Treasury is of the view that licensing fees for one law firm (and one set of counsel where appropriate) is reasonable for a given action or piece of advice.

You 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. The Treasury will consider each application on its merits.



Can court fees be licenced?

The Treasury's view is that both court fees and payments into court, for security for costs, can be licenced under the reasonable legal fees licensing ground. However, the Treasury is of the view that a separate licensing ground needs 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 IOM law, you need to demonstrate that the amounts sought are in line with licensing policy.

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

You, your employees and your clients need to be clear about the specific permissions contained in the licences 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 also 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.

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 the sanctions legislation. You should consider whether:

- a licence is available to allow you to comply with the court order;
- the court should be made aware of the financial sanctions;
- 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 judgment/arbitration order enforced where there is a licensing ground to allow this to happen. Whether there is a licensing ground available depends on the specific facts of the case and the sanctions regime under which the asset freeze applies. If a court has ordered a judgment in favour of a person subject to an asset freeze, under UK Regulations applicable in the IOM, and there are no licensing grounds to allow the payment to be made, 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.



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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 are very limited licensing grounds on which to allow the funds to be returned. They may have to remain frozen by the law firm until such time as the designated person is no longer subject to sanctions.

How does legal professional privilege apply to my reporting obligations?

You are not required to provide information that is subject to legal professional privilege. The Treasury expects legal professionals to approach their disclosure obligations with rigour and carefully consider where legal professional privilege applies, and to what information. The Treasury will challenge any blanket claims of privilege where we are not satisfied that such careful consideration has been made. You should proactively engage with your client about the need to provide information to meet the reporting requirements in licences.

3.5 Import/export sector

I have an export control licence. Is that all I need?

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

My product is not subject to trade controls. Do financial sanctions still apply to me?

You still need to consider financial sanctions if goods are being made available – directly or indirectly – to, or for the benefit of, a designated person. Equally, if payments are coming from or through a designated person, such as a designated bank, and there is no relevant exemption, a licence will be required.



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

You need to consider carefully the restrictions in place against the designated person. For example, if a person is subject to sanctions under the Syrian regime, you need to look at the legislation imposing that regime. Some regimes have specific exemptions or licensing grounds for the provision of goods or funds for humanitarian, medical or diplomatic purposes, which may expand the options from the normal licensing grounds.

The Treasury seeks to prioritise applications for licences in these cases.



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Part 4 Compliance for non-governmental organisations (NGOs)/charity sector

The Treasury recognises the important humanitarian work that NGOs and charities do internationally and that financial sanctions regimes are in force in many areas where NGOs and charities operate.

To facilitate the passage of humanitarian good and funds, the international community creates sanctions measures with humanitarian provisions, i.e. exemptions or licensing grounds to allow goods to be provided and payments made.

However, financial sanctions may still apply to certain payments even if they relate to humanitarian activity.

Privacy Notice

The Treasury collects information about you in order to administer taxation and carry out other functions for which it is responsible (e.g. National Insurance, customs and excise duties, property rates, social security benefits, state pensions and legal aid etc.), and for the detection and prevention of crime.

Whilst that information will primarily be provided by you, where the law allows we may also get information about you from other organisations, or give information about you to them. This may be to check the accuracy of the information provided, prevent or detect crime or protect public funds in other ways. These organisations may include other government departments, the police and other agencies.

To find out more about how we collect and use personal information, contact any of our offices or visit our website at: <https://www.gov.im/about-the-government/departments/the-treasury/privacy-notice/>