

Financial Sanctions Licence Guidance

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Isle of Man
Government

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1. Overview

The Treasury can only issue licences where there are specific and relevant licensing grounds enabling it to do so, and where the conditions in those grounds have been met. The available grounds can be found in the legislation underpinning each particular financial sanctions regime.

The Treasury will only consider licensing activities that fall within the licensing grounds set out in the legislation. When considering making an application, you may wish to seek legal advice.

For more information on the Treasury's approach to licensing grounds, refer to Annex A; Financial Sanctions Guidance: Licensing Grounds.

Licences cannot be issued retrospectively. If you have carried out an act that required a licence, without having obtained one beforehand, you may have breached financial sanctions and you should consult Chapters 5 and 11 of the Financial Sanctions General Guidance immediately.

It is important to note that the Treasury only issues licences in relation to its areas of competence; a Treasury licence does not confirm that a particular transaction as a whole is lawful under financial sanctions regulations (for example, in some cases a further licence, such as an export control licence, may be required).

A licence is a written permission from the Treasury allowing an act that would otherwise breach prohibitions imposed by financial sanctions. It does not compel any party, including the financial institutions involved in the payment route, to take any action. It confirms, solely, that the act(s) specified in the licence are allowed by the Treasury.

2. General licences

A general licence issued by the Treasury allows multiple parties to undertake specified activities which would otherwise be prohibited by sanctions legislation, without the need for a specific licence.

It is not however, a substitute for a specific licence. There is no legal basis for the issuance of a general licence in place of a specific licence.

Details of active general licences and accompanying guidance are available on the Sanctions and Export Control website.

The Treasury does not accept applications for general licences. General licences may be issued by the Treasury in line with those issued in the UK by OFSI.

The Treasury can vary, suspend or revoke general licences at any time.

Each general licence will include requirements for prior notification of use, record-keeping and reporting. Prior notification is an administrative exercise only, whereby users provide the Treasury with contact information. Prior notification does not constitute any verification by the Treasury of correct/incorrect usage of a general licence. Data collected under a general licence as a result of prior notification would be handled in accordance with applicable data protection law. In addition to these

standard requirements, general licences may be subject to further requirements. These are determined on a case by case basis.

Requirements will be stated in each general licence. It is the responsibility of any party using a general licence to ensure the activities they undertake fall within the terms of the licence and that they comply with any conditions of the licence.

Breaching the terms of a general licence is a serious offence punishable by a maximum of seven years' imprisonment on conviction on indictment or a fine (or both) and, on summary conviction, a maximum of twelve months' imprisonment.

3. Treasury licences

3.1. Applying for a specific licence

You must provide evidence to support an application and demonstrate that all criteria of the relevant licensing ground (where applicable) have been met. Incomplete applications will not be considered and will be returned to the applicant for re-submission.

The Treasury will endeavour to assist applicants who contact us to understand the licensing process as well as our evidentiary requirements. However, we cannot provide legal advice and applicants should consider taking independent legal advice before applying, especially for complicated matters.

The Treasury expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching the Treasury for guidance or submitting an application.

The Treasury does not charge for licences.

3.2. Submitting an application

Applicants should use the CEM85 MAN Sanctions Licence Application form which is available on the Sanctions licence page of the Sanctions and Export control website.

Applicants will generally be required to provide:

- the licensing ground(s) being relied upon in the application including supporting arguments
- full information on the parties involved in the proposed transaction, for example:
- designated person(s)
- any financial institution(s) involved (e.g. remitter, correspondent, beneficiary)
- ultimate beneficiary of the transaction
- the complete payment route including account details
- the amount (or estimated amount) of the proposed transaction.

You should always refer to the up-to-date version of the legislation for the relevant sanctions regime.

Tips for applicants

- Read this guide and the up-to-date version of the relevant legislation
- Identify the appropriate licensing ground
- Use the licence application form on our website (you may wish to seek legal advice to support this process)
- Provide a clear description of the payment chain and all parties involved
- Ensure that all relevant information and supporting evidence is included with the application
- Apply for the licence at least four weeks in advance
- Be available to fully engage with the Treasury on your application
- Where applicable, make sure your bank is aware of the situation

3.3. Specificity in licensing

In line with international best practice, the Treasury's view is that compliance with financial sanctions is generally best served through specificity in licensing about the transactions authorised. Licence applicants should therefore be prepared to provide full details of transactions relevant to their application(s), including all parties, sums and payment routes involved directly or indirectly in the proposed transaction(s) as well as any other relevant information, which will assist the Treasury in considering the application.

3.4. Counter-terrorism regimes

If you are seeking a licence under either the Counter-terrorism or the ISIL (Da-esh) and Al-Qaida organisations regimes, you should email sanctions@gov.im setting out the full details of the proposed transaction.

The overall objective of the licensing system for terrorism designations is to strike an appropriate balance between minimising the risk of diversion of funds to terrorism and respecting the human rights of designated persons and other third parties.

The Treasury only grants licences where there is a legitimate need for such activities or transactions to proceed and where they can proceed without giving rise to any risk of terrorist finance. This helps to ensure that the sanctions regime remains effective, fair and proportionate in its application.

The Treasury may need to notify, or in some cases seek approval from the relevant United Nations Sanctions Committee before issuing a licence. These requirements are set out in the relevant UN Security Council Resolutions. These requirements will lengthen the processing time for such licence applications and may in some cases prevent a licence from being issued.

In order to licence as proportionately as possible whilst mitigating the risk of terrorist financing, the Treasury may also attach conditions to licences. Licence conditions apply safeguards to ensure that funds or economic resources can be made available to designated persons in a way that protects against terrorist financing risks. In this way, appropriate conditions facilitate the granting of licences that it might otherwise not be possible to grant.

The conditions the Treasury apply to licences reflect two broad policy objectives:

- to ensure that designated persons do not have access to large amounts of cash, which can be more easily diverted to terrorist activity; and
- to ensure that there is a reasonable audit trail to address terrorist finance risks and that the Treasury can monitor compliance with the terms of the licence and identify if any breaches of the relevant legislation has have occurred.

Knowingly or recklessly providing false or misleading information in any licence application is taken very seriously. Doing so may result in a criminal prosecution or a monetary penalty.

3.5. Licensing timeframes

The Treasury aims to engage with applicants on the substance of completed applications for specific licences within four weeks. This does not mean that a licence will necessarily be issued within four weeks.

A completed application is one where the Treasury has received all the information we need to enable us to make a decision about whether there is a legal basis to grant a licence. We will send back incomplete applications or ask you for additional information until we are satisfied that your application can be considered complete.

Please note that failure to submit all the necessary information requested by the Treasury will result in delays to your application being processed.

You should not assume that a licence will be granted or engage in any activities prohibited by financial sanctions until you have received an appropriate licence from the Treasury.

3.6. Urgent and humanitarian cases

The Treasury will prioritise urgent and humanitarian cases, i.e. cases that involve a risk of harm or a threat to life.

If a request is urgent, please say so when submitting your application and explain why.

3.7. Notification and approvals

Please note the Treasury may need to notify, or in some cases seek approval from, the relevant United Nations Sanctions Committee before issuing a licence. These requirements are set out in the relevant UN Security Council Resolutions.

These requirements will lengthen the processing time for such licence applications and may in some cases prevent a licence from being issued.

4. Amending licences

Requests for an amendment, variation or extension of a licence should be submitted to the Treasury by email as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.

If multiple amendments need to be made to a single licence you should group these together into a single request to the Treasury.

The Treasury aims to engage with applicants on the substance of completed amendment requests within four weeks. This does not mean that an amended licence will necessarily be issued within four weeks. Nor can the Treasury guarantee that last-minute amendment, variations or extensions will be authorised within the requested timeframe.

You must not carry out any action(s) which are not authorised by a valid licence. For example, if a licence has expired or you have reached a cap on permitted spending, further activity may not be lawful.

Any such actions will be considered a breach of financial sanctions and may result in a criminal prosecution.

5. Refusal of a licence

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

We may 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:

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

You may wish to seek independent legal advice before taking the matter further.

6. Other jurisdictions

Licences issued by the Treasury only apply to actions subject to IOM jurisdiction. If the prohibited activity engages another jurisdiction you should consider what provisions you may need to comply with within their requirements. For instance, if a payment will pass through several jurisdictions you may need to apply for a licence from each of those countries' competent authorities.

When considering licensing requests, the Treasury will conduct whatever investigation it deems appropriate in the circumstances, which may include consulting with international partners with an interest.

7. Complying with a licence

Specific licences issued by the Treasury are not published. However, the Treasury expects licence holders to share licences with other parties to the transaction. If you are unsure on whether the action you propose to undertake is within the terms of a licence you can seek clarification from the Treasury. We aim to respond to such queries within two weeks of receipt.

If you are unsure about the validity of a licence that a designated person or their representative has shown to you, you should email a copy of the licence to the Treasury.

You should not assume that the Treasury agrees with your interpretation of the licence until you receive a response from us.

Any conduct outside the terms of a licence, such as use of a different payment route or payments in excess of a specific payment cap, is a breach of financial sanctions, and may result in a criminal prosecution.

7.1. Reporting conditions

Licences issued by the Treasury come with conditions that often require information to be reported to the Treasury within a specific time frame. A failure to comply with these reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being included in it. It may also result in a criminal prosecution or monetary penalty.

Legal advisors should proactively engage with their clients about the need to provide information to meet the reporting requirements in licences.

Existing licences issued under previous regimes

Specific licences issued by the Treasury which were in effect immediately prior to the Sanctions Act 2024 coming into operation will continue to have effect. This means that you can continue to rely on existing licences issued by the Treasury until they expire.

7.2. Travel to the IOM

Designated persons who are not subject to a travel ban and who are planning to visit the Isle of Man should apply to the Treasury for an appropriate licence authorising any proposed use of funds or economic resources to support themselves 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. 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 Isle of Man who are funded, in whole or in part, by a designated person.

Anyone dealing with funds that should be frozen, or who makes economic resources available to a designated person without an appropriate licence will be committing an offence, which may result in a criminal prosecution.

If you are a designated person, you must hold a valid licence for the duration of your stay to allow the use of or access to funds or economic resources, while in the IOM.

If no valid licence is held, you may be in breach of sanctions regulations.

8. Export licences

If you import or export goods, you need to consider if financial sanctions apply to you. You may need a Treasury licence as well as a Trade licence.

9. Other Information

Contact Details

If you need more advice or information please contact us on the below details:

Tel: (01624) 648109

Email: sanctions@gov.im

Address: Customs House, North Quay, Douglas, Isle of Man, IM99 1AG

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/>

Annex A

The Treasury's Approach to Licensing Grounds

The following table sets out the licensing grounds commonly found in the applied UK regulations as well as the Treasury's approach to them. Some licensing grounds cannot be applied to persons designated by the United Nations. As noted in section 8, the exact grounds available can be found in the legislation underpinning each particular financial sanctions regime. The Treasury carefully scrutinises all applications made to assess whether they fall under the relevant licensing grounds

Licensing ground	The Treasury's approach
Basic needs	<ul style="list-style-type: none">• The legislation confirms that the ground is present to enable the basic needs of a designated person, or (in the case of an individual) any financially dependent family member of such a person to be met.• Expenditure to meet basic needs of an individual should be expenses which are necessary to ensure that designated persons or financially dependent family members are not imperiled.• In respect of a person other than an individual e.g. an entity, the legislation confirms that basic needs includes:<ul style="list-style-type: none">○ payment of insurance premiums○ payment of reasonable fees for the provision of property management services○ payment of remuneration, allowances or pensions of employees○ payment of tax○ rent or mortgage payments○ utility charges• The list of basic needs detailed above is not exhaustive but is indicative of the type of basic needs intended to be caught. Therefore, expenditure to meet the basic needs of an entity should be expenses strictly necessary to ensure the continued existence of the designated entity.• Basic needs licences do not necessarily enable a designated person to continue the lifestyle or business activities they had before they were designated.

Licensing ground	The Treasury's approach
Fees for the provision of legal services	<ul style="list-style-type: none"> • Both legal fees and disbursements must be reasonable. It is for the applicant to demonstrate to the Treasury that the legal fees and disbursements are reasonable. • You can provide legal advice to or act for a designated person without a Treasury licence, however, you cannot receive any payment for that advice without first obtaining a Treasury licence. • The Treasury can only authorise payment of reasonable legal fees and disbursements in relation to legal services provided to a designated person. You are strongly encouraged to apply for a licence in advance of providing substantive legal services in order for you to have certainty as to the fees that will be recoverable whilst the designated person remains listed. • In support of your application, you should: <ul style="list-style-type: none"> ○ provide an estimate of the anticipated fees and/or fees that have already been incurred; ○ provide a breakdown of how the fees will be charged and/or have been charged; and ○ identify any disbursements, such as payments for counsel and/or expert witnesses. • The Treasury considers that the Rules of the High Court of Justice 2009 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 in excess of those, you need to demonstrate why those increased fees are reasonable in the given case. • Fees and disbursements must relate specifically to the provision of legal advice, involvement in litigation or in dispute resolution.
Routine maintenance of frozen funds and economic resources	<ul style="list-style-type: none"> • The fees or service charges must be reasonable and result in routine holding or maintenance of frozen funds or economic resources. • The re-design, refurbishment or redevelopment in order to improve the value of a frozen economic resource is generally not covered, although each application will be considered on a case by case basis.
Extraordinary expenses	<ul style="list-style-type: none"> • This must be extraordinary in nature (not recurring and unavoidable). • It cannot be used where other licensing grounds are more suitable or as a way of avoiding the clear limitations of those other grounds.
Pre-existing judicial decisions etc	<ul style="list-style-type: none"> • This enables the use of frozen funds or economic resources that are the subject of a judicial decision or lien which was established before the date of designation and enforceable in the IOM. The use of the funds or economic resources must be to implement or satisfy in whole or in part the pre-existing judicial decision or lien and cannot be for the direct or indirect benefit of a designated person.

Licensing ground	The Treasury's approach
Humanitarian assistance activity etc	<ul style="list-style-type: none"> • This enables payments to facilitate: <ul style="list-style-type: none"> ○ any humanitarian activity; or ○ where applicable, any activity where its purposes are consistent with the objectives of UN Security Council Resolutions (which will be set out in the applicable Sanctions Act regulations). • Humanitarian assistance includes the work of international and non-governmental organisations carrying out relief activities for the benefit of the applicable civilian population, which may include the delivery of humanitarian aid or peacebuilding programmes. • A licence may still be required even if this activity is using government funds.
Diplomatic missions	<ul style="list-style-type: none"> • This enables anything to be done in order that the proper functions of a diplomatic mission or consular post or an international organisation enjoying immunities in accordance with international law, may be carried out.
Extraordinary situations	<ul style="list-style-type: none"> • This applies to non-UN designated persons and enables anything to be done to deal with an extraordinary situation. This will enable a situation which is extraordinary in nature but does not necessarily involve an expense. • This may, for example, allow for funds to be released to support disaster relief or provide aid in extraordinary situations. It cannot be used where other ground are more suitable or as a way of avoiding the clear limitations of other grounds.
Prior obligations	<ul style="list-style-type: none"> • The obligation must have arisen prior to the date of designation and cannot relate to trade provisions (specified in the regulations). In addition, it cannot result in funds or economic resources being made available (directly or indirectly) to the designated person.
Divestment	<p>The licensing grounds give the Treasury the authority to issue licences to enable Isle of Man entities as set out below.</p>
	<p>Wholly (fully) divest funds and economic resources they own, hold or control located within Russia and/or enable the facilitation of another person (UK or non-UK) to fully divest funds and economic resources owned, held or controlled by that person located within Russia.</p>
	<ul style="list-style-type: none"> • Full divestment for the purposes of licensing requests under these grounds constitutes the transfer by a person or Isle of Man entity ('A') of funds and/or economic resources located in Russia ('the Relevant Asset'), to either a DP or the Russian government, resulting in A having no remaining interests in the Relevant Asset. It does not mean that A is required to transfer all of the funds and/or economic resources they own, hold or control in Russia, but they do need to divest their entire interest in the Relevant Asset. • The Treasury will not treat activity it considers to be business-as-usual as full divestment. This may include, but is not limited to, activity: which restructures A's ownership of the Relevant

Asset so that A still owns or controls it via a different entity which A owns or controls; or the object of which is to fulfil A's contractual obligations, but which is not aimed at the full divestment of the Relevant Asset.

Partially divest funds and economic resources they own, hold or control located within Russia and/or enable the facilitation of another person (Island person or non-Island person) to partially divest funds and economic resources that person owns, holds or controls located within Russia

- Partial divestment for the purposes of licensing requests under these grounds is a situation where a person or Isle of Man entity ('A') has decided to divest itself of particular funds and/or economic resources located in Russia ('the Relevant Asset') as opposed to all of its funds and/or economic resources located in Russia to either a DP or the Russian government but wishes to only divest itself of a proportion of the Relevant Asset instead of all of it.
- The applicant must provide evidence to demonstrate that this is part of a strategy to ultimately fully divest the Relevant Asset being partially divested, or a sufficient explanation as to why that is not possible.
- The Treasury will not treat activity it considers to be business-as-usual as partial divestment. This may include, but is not limited to activity: that restructures A's ownership of the Relevant Asset being partially divested so that A still owns or controls it via a different entity which A owns or controls; or the object of which is to fulfil A's contractual obligations, but which is not aimed at the partial divestment of the Relevant Asset.
- In cases of both full and partial divestment, the Treasury will be very unlikely to license any activity where there is evidence that there is a potential for assets to be used in support of Russia's war effort.

Divest investors who are designated under the Russia Regulations ("DP") or the Russian government and/or enable the facilitation of another person (Island person or non-Island person) to divest themselves of investors who are DPs or the Russian government.

- This divestment is only licensable where: the sole consideration for the divestment is a transfer of funds to a DP or the Russian government; and those funds are transferred to a frozen account at a relevant institution, or an account held by a non-Isle of Man credit or financial institution in a jurisdiction outside the Isle of Man, the law of which provides for equivalent prohibitions, exceptions and licensing grounds.
-