

Financial Sanctions - Guidance



Isle of Man
Government

Reiltys Ellan Vannin

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This guidance outlines your obligations under financial sanctions as well as the Treasury's approach to licensing and compliance issues. It takes into account relevant case law and EU guidance at the date of publication.

This guidance is general in nature so you should also refer to the relevant, up-to-date legislation as well as specific Treasury guidance where it is available. Please note that each case will be considered on the facts and the specific legal requirements that apply.

Please also note that the Treasury cannot issue definitive guidance on how an EU or UK court might interpret these laws.

Finally, this guidance does not represent legal advice. If you are unsure about your obligations in a given case, you should consider taking independent legal advice.

This guidance is produced by the Customs and Excise Division of the Treasury, which is the competent authority for the implementation of financial sanctions in the Isle of Man. The Treasury has appointed its Customs and Excise Division to act for the purpose of enforcing financial sanctions. Accordingly, certain powers have been delegated by the Treasury to the Division.

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by—

- Email (customs@gov.im)
- Telephone (01624 648109)

The Sanctions Officer
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

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1 Overview of financial sanctions

What are financial sanctions?

Financial Sanctions are prohibitions and restrictions put in place by the United Nations, European Union, United Kingdom and Isle of Man, with the aim of maintaining or restoring international peace and security. They can:

- limit the provision of certain financial services;
- restrict access to financial markets, funds and economic resources.

They generally target specific individuals or entities, or particular sectors, industries or interests. They may be aimed at such people and things in a particular country or territory, or some organisation or element within them.

There are also sanctions that target those persons and organisations involved in terrorism, including Al-Qaida and ISIL.

Financial sanctions are generally imposed to:

- **coerce** a regime, or individuals within a regime, into changing their behaviour (or aspects of it) by increasing the cost on them to such an extent that they decide to cease the offending behaviour;
- **constrain** a target by denying them access to key resources needed to continue their offending behaviour, including the financing of terrorism or nuclear proliferation;
- **signal disapproval**, stigmatising and potentially isolating a regime or individual, or as a way of sending broader political messages nationally or internationally; and/or
- **protect the value of assets** that have been misappropriated from a country until these assets can be repatriated.

Who is involved in making and implementing sanctions?

The **United Nations (UN)** imposes financial sanctions and requires UN member states to implement them through Resolutions passed by the UN Security Council. You can read more about the UN's work on financial sanctions on their website: <https://www.un.org/sc/suborg/en/sanctions/information>

The **European Union (EU)** implements all financial sanctions imposed by the UN. It does this through EU Regulations which have direct legal effect in the UK and all other EU member states (but these EU Regulations do not apply directly to the Isle of Man). The EU can also impose its own financial sanctions, sometimes referred to as 'EU autonomous' sanctions. These are also implemented through Regulations that have direct effect in all member states. You can read more about the work of the EU in relation to financial sanctions on their website: https://eeas.europa.eu/headquarters/headquarters-homepage/423/sanctions-policy_en

The **United Kingdom (UK)** makes statutory instruments (UK regulations) to:

- impose penalties for breaches of EU regulations;

- provide for exemptions and licensing regimes for permitted derogations;
- obtain, provide and use information relating to the operation of these regulations.

In certain circumstances, the UK can impose its own financial sanctions and restrictions under the following legislation (collectively the 'domestic regimes'):

- Terrorist Asset-Freezing etc. Act 2010 (TAFA 2010);
- Counter Terrorism Act 2008 (CTA 2008);
- Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001).

The **Isle of Man (IOM)** financial sanctions legislation is generally made under the United Nations Act 1946 (an Act of Parliament) and the European Communities (Isle of Man) Act 1973 (an Act of Tynwald).

Orders made under the United Nations Act 1946 impose UN Sanctions. Although this method is rarely used now (favouring the application of EU Regulations), there are still some Orders which remain in force.

Orders made under the European Communities (Isle of Man) Act 1973 apply EU Regulations to the Island. Regulations made under that Act create offences and penalties for breaches of the EU Regulations, provide for the licensing of certain transactions permitted under the EU Regulations, and also provide for the powers in relation to obtaining and disclosing information concerning compliance with financial sanctions obligations.

More details of the legislation which has effect in the IOM can be found in the regime specific notices of the [Sanctions and Export Control section](#) of the Customs & Excise website.

In certain circumstances, the IOM can impose its own financial sanctions and restrictions under the Terrorism and Other Crime (Financial Restrictions) Act 2014 (TOCFRA 2014). This Act also ensures that when a person or entity is listed/de-listed under UN sanctions that relate to terrorism (i.e. Al-Qaida, ISIL and the Taliban) this has automatic effect in the Island.

Further details in relation to Terrorism sanctions can be found in the [Sanctions and Export Control section](#) of the Customs & Excise website.

The Isle of Man Government Departments and agencies that are involved in financial sanctions are as follows:

Department/agency Role	
Treasury (Customs and Excise Division)	<p>Competent authority for implementing financial sanctions, trade sanctions and embargoes</p> <p>Investigates and enforces breaches of financial and trade sanctions</p>

	Makes designations under TOCFRA 2014
Financial Intelligence Unit (FIU)	<p>Authority to whom reports of frozen accounts, designated persons & breaches must be made.</p> <p>Disseminates intelligence to Customs & Excise to investigate financial sanctions issues</p>
Gambling Supervision Commission	<p>Regulates gambling activity on the Island and undertakes compliance checks with regard to financial sanctions as part of the regulation and oversight of regulated businesses.</p> <p>Issues Anti-money laundering guidance for the gambling sector.</p>
Isle of Man Constabulary (Economic Crime Unit)	Lead agency for terrorism and the financing of terrorism investigations
Isle of Man Financial Services Authority (FSA)	<p>Regulates financial service businesses on the Island and oversees Designated Non-Financial Businesses and Professions in respect of Anti-Money Laundering and Countering the Financing of Terrorism.</p> <p>Issues Anti-Money laundering guidance and undertakes compliance checks with regard to financial sanctions as part of the regulation and oversight of regulated businesses.</p>
Department of Home Affairs	Responsible for publication of the Anti-Money Laundering and Countering the Financing of Terrorism Code , which places requirements on business in order to prevent money laundering and the financing of terrorism.

Types of financial sanctions

Financial sanctions come in many forms as they are developed in response to a given situation. The most common types of financial sanctions used in recent years are:

- **Targeted asset freezes:** these apply to named individuals, entities and bodies, restricting access to funds and economic resources;
- **Restrictions on a wide variety of financial markets and services:** these can apply to named individuals, entities and bodies, specified groups, or entire sectors. To date these have taken the form of:
 - investment bans,
 - restrictions on access to capital markets,
 - directions to cease banking relationships and activities,

- requirements to notify or seek authorisation prior to certain payments being made or received, and
- restrictions on the provision of financial, insurance, brokering or advisory services or other financial assistance;
- **Directions** to cease all business: these will specify the type of business and can apply to a specific person, group, sector or country.

Other types of sanctions

There are other forms of sanctions which may be imposed in addition to financial sanctions. Examples include:

- arms embargoes: prohibition on the export of military and paramilitary equipment;
- controls on the supply of dual-use items (i.e. those that have both a civilian and potential military or weapon of mass destruction (WMD) use), including supplies of technology;
- import/export or trade embargoes: involving specific types of goods (e.g. petroleum products), or their movement using aircraft or vessels, including facilitating such trade by means of financial or technical assistance, brokering, providing insurance etc.;
- measures designed to prevent the proliferation of WMDs;
- visa and travel bans.

For further information on import/export and trade controls, please visit the [Sanctions and Export Control section](#) of the Customs and Excise website.

2 Isle of Man Government Policy

The Isle of Man Government's policy with regard to financial sanctions is to maintain the lists of those affected so that they correspond to those adopted by the United Kingdom.

There are two main reasons for adopting this policy -

- constitutional - the UK is responsible for the IOM's international relations;
- practical - businesses that operate in the IOM and the UK should not have to refer to different sanctions measures.

Therefore, the sanctions lists you should refer to are those maintained by HM Treasury's Office of Financial Sanctions Implementation (OFSI):

- the Consolidated List
<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>
- the List of entities subject to capital market restrictions
<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/ukraine-list-of-persons-subject-to-restrictive-measures-in-view-of-russias-actions-destabilising-the-situation-in-ukraine>

An organisation may be proscribed ('banned') under the IOM's Anti-Terrorism and Crime Act 2003. For the purposes of the Anti-Terrorism and Crime Act 2003, an organisation is proscribed if -

- (a) it is listed in Schedule 2 to the Terrorism Act 2000 (an Act of Parliament), or
- (b) it operates under the same name as an organisation listed in that Schedule.

The list of proscribed organisations is maintained by the UK Home Office and can be found at: <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>

Further information about these lists can be found in section 3.

3 Who is subject to financial sanctions?

Who needs to comply with financial sanctions?

Financial sanctions apply more broadly than simply to the persons subject to them. The following outlines where financial sanctions apply and who needs to comply with them.

- Financial sanctions apply within the territory of the IOM and to all IOM persons (i.e. individuals and legal entities), wherever they are in the world.
- All individuals and legal entities who are within or undertake activities within the Island's territory must comply with the financial sanctions that are in force. For example, this includes corporate service providers, banks, the insurance sector etc.
- All IOM nationals and legal entities established under IOM law, including their branches, must also comply with financial sanctions that are in force, irrespective of where their activities take place.

The sanctions lists

1. The 'consolidated list'

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

The consolidated list, maintained by the UK's OFSI includes all designated persons subject to financial sanctions under UN resolutions, EU and UK legislation. **All of these are applicable in the Isle of Man.**

OFSI aims to update the consolidated list within one working day for all new UN, EU and UK listings coming into force in the UK, and within three working days for all other amendments.

The UK's consolidated list does not contain listings imposed by non-EU countries or those imposed at the national level by other EU member states.

2. List of entities subject to capital market restrictions

<https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/ukraine-list-of-persons-subject-to-restrictive-measures-in-view-of-russias-actions-destabilising-the-situation-in-ukraine>

OFSI maintains a separate list of entities subject to specific capital market restrictions. These entities are not contained on the consolidated list. For more information on the restrictions that apply to these entities, and how these restrictions have effect in the Island, please see the [Ukraine/Russia Sanctions Notice](#) found in the Sanctions and Export Control section of the Customs and Excise website.

3. Proscription under the Terrorism Act 2000

An organisation may be proscribed ('banned') under the Anti-Terrorism and Crime Act 2003, and the IOM follows the same list maintained in the UK under the Terrorism Act 2000. Because proscription involves different restrictions, and because not all proscribed organisations are subject to financial sanctions, the list of proscribed organisations is not included in OFSI's consolidated list.

The list of proscribed organisations is maintained by the UK Home Office and can be found at: <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>

How do I receive updates on changes to the lists?

You can subscribe to the RSS feed provided by Customs and Excise. The service will provide you with copies of the news releases issued by the Division and advise you of new sanctions measures, changes to the sanctions lists and other Customs and Excise related news. The feed can be subscribed to at:

<https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/news/>

Alternatively, OFSI notifies its subscribers by email whenever a new Notice is published. To subscribe to their email alerts go to:

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

OFAC Sanctions

Businesses in the Isle of Man may also be affected by sanctions imposed by the US authorities and implemented by the Office of Foreign Assets Control (OFAC). OFAC regulations may be imposed on -

- US citizens wherever they are located, i.e. whether in the USA or not;
- permanent resident immigrants, whether located inside or outside the USA;
- persons and entities in the USA;
- persons and entities who trade in US dollars; and
- bodies incorporated in the USA and their foreign branches.

In addition, in certain cases they can also apply to all foreign subsidiaries owned or controlled by US companies, and foreign persons who are in possession of goods of US origin.

Whilst in some cases US sanctions will correspond to those in force in the Island, such as where they implement UN Security Council Resolutions, not all will, and OFAC sanctions do not have any legal effect in the Island.

However, businesses need to be aware of the US sanctions, because if found to be in breach of these sanctions they could face severe commercial problems and/or penalties for individuals, or adversely affect any commercial interests in the USA. Furthermore, should a person or entity be listed by OFAC this may be a reason to undertake enhanced customer due diligence in relation to any proposed transaction involving them and to submit a suspicious activity report to the Financial Intelligence Unit (FIU).

4 Directions

The Customs and Excise Division, as the competent authority designated by the Treasury, directs that **any funds held for or on behalf of the individuals or entities named in the sanctions lists (see section 3) having effect in the Island must not be made available**, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Financial Intelligence Unit.

All persons in business or a profession in the Island, including financial institutions, **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists.

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

- freeze them;
- not deal with them or make them available to, or for the benefit of, the designated person, unless:
 - there is an exemption in the relevant legislation that you can rely on;
 - you have a licence;
- report them to the FIU (see section 5).

"Reasonable cause to suspect" refers to an objective test that asks whether there were factual circumstances from which an honest and reasonable person should have inferred knowledge or formed the suspicion.

An asset freeze does not involve a change in ownership of the frozen funds or economic resources, nor are they confiscated or transferred to the Treasury for safekeeping.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Financial Intelligence Unit and co-operate in any verification of the information (see section 5 below).

5 Reporting obligations

Regulations require natural and legal persons to supply the FIU as soon as practicable with any information that would facilitate compliance with the Regulations. Any information provided will only be used for the purposes for which it was provided or received. For example, see [Article 6 of Council Regulation \(EC\) No 1183/2005 of 18 July 2005, as it has effect in the Island](#).

This requirement applies to natural and legal persons, entities and bodies in the Island or under IOM jurisdiction and not just to credit or financial institutions or to individuals working for them.

Examples of the kind of information that will facilitate compliance can be found in the table below.

Reporting Area	Example
Person is a designated person	<p>A customer or client of yours is a designated person.</p> <p>You must provide the FIU with any information you hold about the designated person by which they can be identified.</p>
Offences	<p>Exact offences will depend on the particular legislation, but can include:</p> <ul style="list-style-type: none">• making funds or economic resources available to a designated person (except where an exemption applies or under licence)• dealing with funds or economic resources that must be frozen (except where an exemption applies or under licence)• activities that circumvent an asset freeze• breaches of licensing conditions
Funds and economic resources	<p>You must include details of any funds and economic resources that you have frozen.</p>
Credits to frozen accounts	<p>Businesses must inform the FIU without delay whenever it credits a frozen account with:</p> <ul style="list-style-type: none">• payments due under prior contracts• payments made under judicial decisions rendered in an EU member state or member State concerned (including the IOM)• funds transferred to an account by a third party

How to report

Reports of accounts and amounts frozen should be made using the online reporting system, THEMIS; however, if you do not have access to this reporting system, you should use the appropriate form on the FIU website:

<https://www.gov.im/about-the-government/statutory-boards/financial-intelligence-unit/>

Financial Intelligence Unit contact details

Financial Intelligence Unit
PO Box 51
Douglas
Isle of Man
IM99 2TD

Telephone: +44 1624 686000

Email: fiu@gov.im

Legal privilege

The reporting requirements do not apply to information to which legal privilege is attached. However, it is expected that legal professionals would carefully ascertain whether legal privilege applies, and which information it applies to. The Treasury may challenge a blanket assertion of legal privilege where it is not satisfied that careful consideration has been made as to whether such privilege applies to all information.

Other reporting obligations

Your obligation to report to the FIU is in addition to any other reporting obligations you may have. These could include reporting required by your regulator (if you have one), or submitting Suspicious Activity Reports (SARs) to the FIU under the Proceeds of Crime Act 2008 or the Anti-Terrorism and Crime Act 2003.

If you are unsure of your reporting obligations, you should seek independent legal advice.

6 Ownership and control

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

Ownership

In line with [EU guidance](#), the Treasury considers that the key criterion to assessing whether a legal person or entity is owned by another legal person or entity is the possession of **more than 50%** of the proprietary rights of an entity or having a majority interest in it. If this criterion is met, and the owner is also a designated person, then financial sanctions will also apply to the entity that is owned by the designated person.

The Treasury interprets 'owned' to include both direct and indirect ownership. If the ultimate beneficial ownership of an entity rests with a designated person (for example, they own a corporate body which owns another corporate body), the Treasury takes the view that all entities that are part of the ownership chain are subject to financial sanctions.

For example, Entity X is not listed on the consolidated list. However, your research shows that the majority owner of Entity X is designated Entity Y (i.e. named on a sanctions list). As the ownership criterion has been met, Entity X is also subject to the same restrictions as designated Entity Y.

Please also see section 7 for more information on complex structures.

Minority interests

If a designated person has a minority interest in another legal person or entity this does not necessarily mean that financial sanctions also apply to them as the ownership criterion has not been met. However, you should remain vigilant to any changes in the stake held by the designated person in case it increases to greater than 50% (or they obtain a majority interest) at which point financial sanctions will also apply to that legal person or entity.

You should also consider whether a designated person is in 'control' of another legal person or entity (see below). Financial sanctions apply in this situation even where a designated person may only possess a minority interest.

Control

In line with EU guidance, the Treasury considers that the satisfaction of at least one of the following criteria is sufficient to establish whether a legal person or entity is controlled by another legal person or entity, alone or pursuant to an agreement with another shareholder or other third party.

- Having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity.

- Having appointed, solely as a result of the exercise of one's voting rights, a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year.
- Controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity.
- Having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision.
- Having the power to exercise the right to exercise a dominant influence referred to in the point above, without being the holder of that right (including by means of a front company).
- Having the right to use all or part of the assets of a legal person or entity.
- Managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts.
- Sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.

The Treasury interprets EU guidance broadly in respect of ownership and control. The above list of criteria is intended to be indicative of the factors leading to control being established and should not be seen as exhaustive.

7 Complex structures

The ownership and control (see section 6 for further details of what is meant by ownership and control) of a legal person or entity is particularly important where any assets, funds or economic resources are held, owned or controlled by means of complex legal structures or arrangements.

Particular attention should be paid to the following, which are the typical prohibitions relating to the freezing of funds and economic resources:

1. All funds and economic resources belonging to, owned, held or controlled, either **directly or indirectly**, by a natural or legal person, entity or body named in a list which has effect in the Island (including by a third party acting on their behalf or at their direction), shall be frozen.
2. No funds or economic resources shall be made available, **directly or indirectly**, to or for the benefit of the natural or legal persons, entities or bodies named in a list which has effect in the Island.

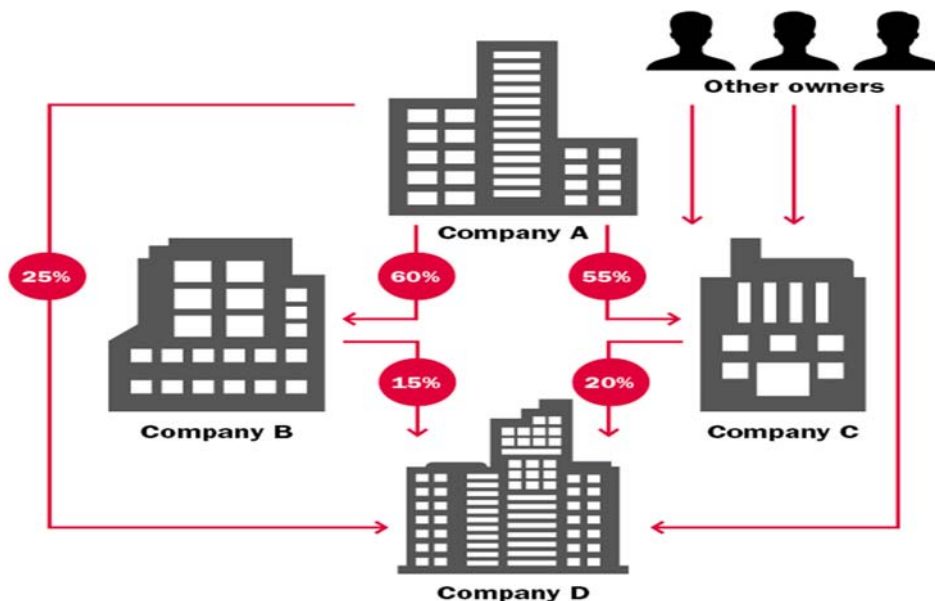
Examples of complex structures

The following are examples of complex structures, and are by no means exhaustive.

It is your responsibility to ensure that you or your clients are not breaching financial sanctions legislation.

If you are not sure whether a structure you manage or are involved with is subject to any financial sanctions, seek advice from Customs and Excise.

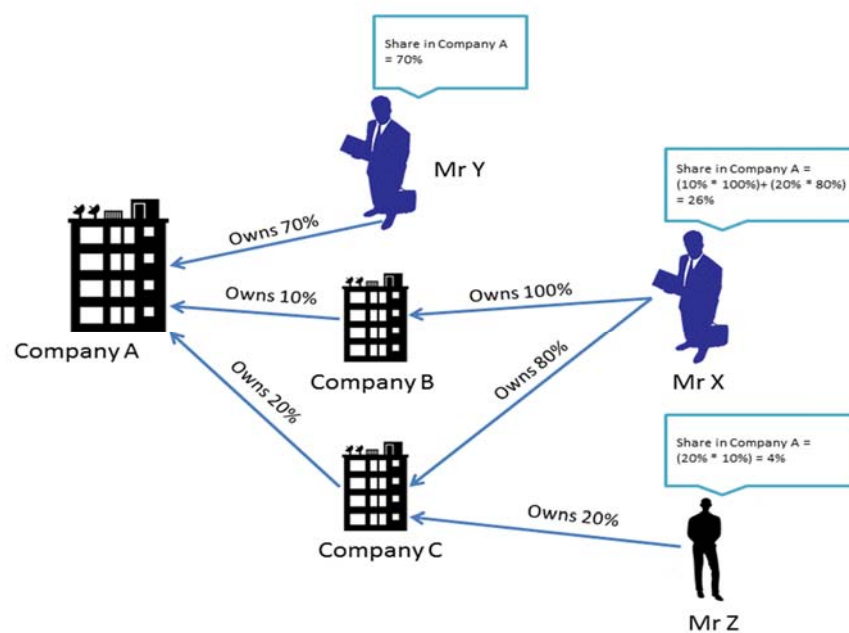
Example 1



Company A has the majority share interest in both Company B (60%) and Company C (55%). As a result, if company A is designated (included on a sanctions list), company B and company C are also sanctioned – even if they are not named on a sanctions list.

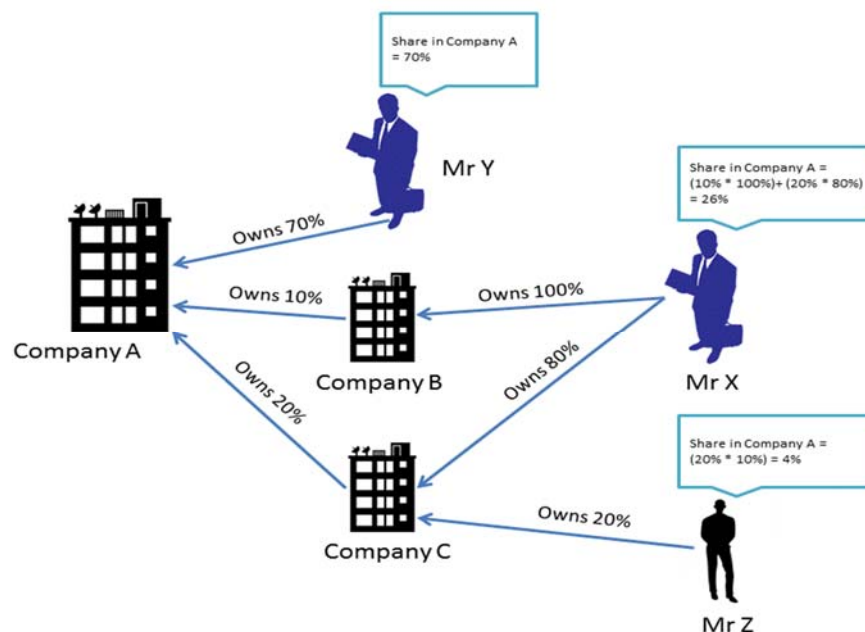
Company D shows a more complex ownership structure: company A owns 25 percent, company B 15 percent, and company C 20 percent. This example demonstrates that the 50% rule also applies to accumulated ownership shares, i.e. if company A is sanctioned, then company D with an accumulated ownership share of over 50 percent by sanctioned companies (direct or by extension), is consequently sanctioned as well.

Example 2



Mr Y is a sanctioned individual. He owns 70% of the shares in Company A. As a result, Company A is also sanctioned, even though the company is not named on a sanctions list.

Example 3



Mr X is a sanctioned individual. Mr X owns 100% of the share interest in Company B and 80% of the share interest in Company C. As a result, both Company B and Company C are also sanctioned, even though they do not appear on the sanctions list. However, in this example, Company A is not sanctioned, as the share that Mr X has in Company A is only 26%, and therefore a minority interest.

However, you should remain vigilant to any changes in the stake held by Mr X in case it increases to greater than 50% (or they obtain a majority interest) at which point financial sanctions will also apply to Company A.

You should also consider whether Mr X is in 'control' of Company A (see section 6 for further details on 'control'). Financial sanctions apply in this situation even where Mr X only possesses a minority interest.

Example 4

It is possible that a designated person may have control or use of another person's bank accounts or economic resources and may be using them to circumvent financial sanctions.

Examples could include a designated person registering assets in the name of associates or family members, or using non-designated persons' bank accounts to hold funds and facilitate transfers. Such actions may constitute a breach of the prohibitions or circumvention of financial sanctions and may result in a criminal prosecution.

What to do if your structure is subject to sanctions

If you identify what you consider to be a complex structure, which is subject to financial sanctions, you should:

- freeze the funds and economic resources that belong to or are owned, held or controlled by the designated person or entity (see section 6 for further information about ownership and control);
- consider obtaining your own legal advice;
- make a report to the FIU.

Reports made to the FIU should include details of (where it is known or suspected) assets, funds or economic resources, whether in the Island or elsewhere, which are owned, held or controlled through complex legal structures or arrangements.

Further guidance is available via:

The EU's Best Practices guide:

<http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>

EU Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy

<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205993%202013%20INIT>

8 Exemptions and licensing

Specific exemptions and licensing powers are generally contained in financial sanctions legislation and can allow otherwise prohibited transactions to take place in some circumstances.

A **licence** is a written authorisation from the Treasury permitting an otherwise prohibited act.

An **exemption** to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence from the Treasury.

The following provides a general overview of the standard exemptions and licensing grounds found in financial sanctions legislation. The grounds may vary from regime to regime so it is important that you check the relevant, up-to-date legislation.

Further details of how to apply for, and amend, a licence, complying with a licence, timeframes and refusals are contained in Annex B.

The licensing grounds in sanctions regimes are interpreted narrowly, which is in keeping with relevant case law and take into account the way in which other jurisdictions, such as the EU, deal with them. This means that the Treasury will only consider licensing those activities that fall within the licensing grounds set out in the legislation.

Licences cannot be issued retrospectively.

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

Export licences

If you import or export goods, you need to consider if financial sanctions apply to you. You may need a licence in relation to financial sanctions, but also an export licence. Please see Notice 279 MAN (Export licensing) on the [Sanctions and export control section](#) of the Customs and Excise website for further information.

UK licences and licences in other jurisdictions

UK licences do not have automatic effect in the Island.

Licences issued by the Treasury only apply to actions subject to Isle of Man jurisdiction. If the prohibited activity also comes under another country's jurisdiction (including the UK) applicants should consider what other licences they may need to comply with their requirements. For instance, if a payment will pass through several jurisdictions they may need to apply for a licence from each of those countries' competent authorities.

OFSI is the competent authority for the UK. A list of the competent authorities for

EU Member States is annexed to EU sanctions Regulations. For example, see Annex II to [Council Regulation \(EU\) 2018/1001 of 16 July 2018 concerning restrictive measures in view of the situation in the Republic of Maldives](#).

Crediting frozen accounts

Asset freezing legislation generally permits a person to make the following payments into a frozen account without the need for a licence from the Treasury, so long as those funds are frozen after being paid in:

- any interest or earnings on the account;
- any payments due to a designated person under contracts, agreement or obligations that were concluded or arose before the date the person became sanctioned.

The legislation also generally permits, without the need for a licence, a financial or credit institution to credit a frozen account with payments from a third party, provided that the incoming funds are also frozen and that it informs the FIU of the transaction without delay.

Licensing grounds

The following table sets out the licensing grounds commonly found in the EU Regulations, which are applied in the Island, as well as the Treasury's approach to them.

Licensing Ground	Treasury's approach
Basic needs	<p>EU and UK case law provides that basic needs involve those expenses which are necessary to ensure that the very existence of the designated person or dependent family members is not imperilled. These needs will be different if the designated person is a legal entity rather than a natural person.</p> <p>Basic needs licences do not enable a designated person to continue the lifestyle or business activities they had before they were designated.</p>
Legal fees and disbursements	The fees must be reasonable and payments of fees and disbursements must relate specifically to the provision of legal advice or involvement in litigation or dispute resolution.
Fees or service charges for routine handling or maintenance of frozen funds or economic resources	The fees must be for routine activities. Re-design, refurbishment or redevelopment to improve value is generally not covered.

Satisfaction of prior court judgments or arbitration decisions against the designated person or entity	The judgment/decision must have been given before the date of designation and cannot be for the benefit of a designated person.
Satisfaction of prior contractual obligations of the designated person	The contract or obligation must have arisen prior to the date of designation and cannot result in funds or economic resources being made available to the designated person.
Extraordinary expenses	<p>This must be an expense of the designated person and it must be extraordinary in nature (so not recurring or easily anticipated).</p> <p>It cannot be used where other grounds are more suitable or as a way of avoiding the clear limitations of those other grounds.</p>

9 Record-keeping

Businesses should maintain records of any potential matches to names on sanctions lists - whether the match turns out to be a true match or a "false positive" (see below).

A business should, as a minimum, keep the following information about any match -

- the information or other grounds which triggered the match (e.g. a "hit" provided by screening software);
- any further checks or enquiries undertaken;
- the sanctions regime(s) applicable;
- the person(s) involved, including any members of compliance or senior management who authorised treatment of the match as a false positive;
- the nature of the relationship with the person or entity involved, including attempted or refused transactions;
- subsequent action taken (e.g. freezing of funds);
- if Customs and Excise, the FIU, FSA or other agency was consulted;
- if the match was formally reported to the FIU.

See Annex C for a suggested 10-step programme to help ensure sanctions compliance.

False positives

The screening of clients and accounts may produce, whether using screening software or otherwise, a match to a person or entity on a sanctions list. A "false positive" is where there is an apparent match to a target on a sanctions list but, after further investigation, it is decided that the person or entity involved is not, in fact, that designated by the Treasury.

A further review should be undertaken by the business to either confirm the match or treat it as false.

True matches are where there is no doubt that the person or entity involved is the target of the sanctions regime. However, there may be a potential or partial match where the name and/or some of the supporting identifying information appears to indicate that you have found a match.

The Treasury does not specify the precise nature of the further enquiries that a business should undertake to satisfy itself that the match is a false positive. However, the business should have both -

- a process detailing how it carries out checks to confirm or treat a match as a false positive; and
- a record of false positives and details of the information or evidence that led the business to decide that it was a false positive, as well as who made the decision to treat the match as a false positive and on what grounds.

Frozen accounts

If you know or have reasonable cause to suspect that you are in possession or control of, or are otherwise dealing with, the funds or economic resources of a designated person you must freeze them and where possible, place the funds in a separate account that should be designated as a "frozen account".

An asset freeze does not involve a change in ownership of the frozen funds or economic resources, nor are they confiscated or transferred to the Treasury for safekeeping.

Where the particular sanctions order does not require persons other than a financial institution, or other specified type of person, to block or freeze assets belonging to a person on a sanctions list it should be borne in mind that, notwithstanding this, acting to assist in the placing, movement or use of any funds may nevertheless constitute an offence under the Island's anti-money laundering legislation. Those affected are advised therefore to consult the Customs and Excise Division and the Financial Intelligence Unit (FIU) for advice.

Payments from frozen accounts are prohibited unless a written licence has been granted by the Treasury.

10 Removal from sanctions list (delisting)

If a name is removed from a sanctions list this will be advised by news release published by Customs and Excise (see section 3 for details of how to subscribe to the necessary feed).

If a name is removed from a sanctions list, or the sanctions as a whole are lifted, any block of accounts or the freezing of funds or other economic resources is automatically removed.

However, any business which had involvement with any person or entity formerly on a sanctions list, or had blocked accounts or frozen funds or other economic resources because of a sanctions measure, should preserve the record of their actions and details of the involvement, account and resources in case the Treasury, Constabulary or regulator wishes to inspect the record.

If advised of a delisting, or a repeal or other change that results in a block on an account, or the freezing of funds or other economic resources, to be lifted there is no requirement to inform the FIU of the action you have taken, unless the provisions of the Proceeds of Crime Act 2008 or the Anti-Terrorism and Crime Act 2003 apply.

Mistaken Identity

If you believe that your assets have been frozen mistakenly, for instance as a result of mistaken identity, you should first contact the institution that froze your assets requesting an explanation, including a request that they identify whom they believe you are a target match for on the consolidated list.

You may be able to refer the matter to the Isle of Man Financial Services Ombudsman Scheme if the institution is covered by this scheme:

<https://www.gov.im/about-the-government/statutory-boards/isle-of-man-office-of-fair-trading/financial-services-ombudsman-scheme/>

11 Challenging Designations

Those who are subject to financial sanctions can challenge their listing and request their delisting. The financial sanctions will remain in place while the challenge or request is being considered.

UN listings

For UN listings under the ISIL (Da'esh) and Al-Qaida sanctions regime, a petition for delisting can be made to the UN Office of the Ombudsman to the ISIL (Da'esh) and Al-Qaida Sanctions Committee. For more information about the Office of the Ombudsman please see the UN's website:

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

For all other UN Listings, a request should be sent to the UN focal point for delisting. More information about the focal point is available on the UN's website:

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

Alternatively, if you are a UK resident or citizen (which for the purposes of UN listing includes an Island resident), you can petition the UK to submit a delisting request to the UN by contacting the Foreign and Commonwealth Office's Sanctions Section:

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

Email: sanctions@fco.gov.uk

EU listings

To challenge an EU listing, you should contact the EU directly:

Address: Council of the European Union
General Secretariat
DG C 1C
Rue de la Loi/Wetstraat 175
1048 Brixelles/Brussel
BELGIQUE/BELGIE

Email: sanctions@consilium.europa.eu

UK listings

For UK listings under a UK regime there are avenues of appeal and judicial review within the specific legislation under which the designation is made. Legal correspondence should be sent to:

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

Isle of Man designations under the Terrorism and Other Crime (Financial Restrictions) Act 2014

To challenge a designation under Isle of Man legislation, you should contact the Sanctions Office at the Customs and Excise Division in the first instance, in writing:

Address: The Sanctions Officer
 Customs and Excise Division
 PO Box 6
 Custom House
 North Quay
 Douglas
 Isle of Man
 IM99 1AG

OFAC Sanctions listings

Requests for delisting may be made to OFAC, in writing to the Office of the Director, including by email to OFAC.Reconsideration@treasury.gov

12 Compliance and enforcement

The Customs and Excise Division of the Treasury is responsible for undertaking investigations into any suspected breaches of sanctions (or related export or trade control) law, the drafting of sanctions legislation, and the implementation and administration of sanctions. The Division also deals with general enquiries, providing advice and assistance to public and private sectors and deals with licence applications.

Customs and Excise works with other parts of government, supervisory bodies and regulators to consider all cases reported to it, sharing relevant information accordingly (see section 1).

Customs and Excise may share information as prescribed by the relevant sanctions legislation and wider IOM legislation, including the General Data Protection Regulation (GDPR), as applied and implemented in the Island under the Data Protection Act 2018.

The approach to compliance

Customs and Excise's assessment of breaches is informed by our overall approach to financial sanctions compliance. This approach covers the whole lifecycle of compliance in respect of financial sanctions. We take a holistic approach to ensure compliance rather than simply waiting until the law is broken and responding to the breach.

Our approach is summarised by our compliance and enforcement model: promote, enable, respond, and change.

- We will promote compliance, publicising financial sanctions and engaging with the private sector.
- An effective compliance approach promotes compliance by reaching the right audiences, through multiple channels, with messages they respond to.
- We will enable compliance by making it easier to comply, and providing customers with guidance and alerts to help them fulfil their own compliance responsibilities.
- An effective compliance approach enables cost-effective compliance, makes it easy to comply and minimises by design the opportunities for non-compliance.
- We will respond to non-compliance by intervening to disrupt attempted breaches and by tackling breaches effectively.
- An effective compliance approach responds to non-compliance consistently, proportionately, transparently and effectively, taking into account the full facts of the case, and learning from experience to continuously improve our response.
- We do these things to change behaviour, directly preventing future non-compliance by the individual and more widely through the impact of compliance and enforcement action.

While a decision to pursue a criminal prosecution for breaches of financial sanctions ultimately lies with the prosecuting authorities, Customs and Excise will consider the following when initially considering the course of action to take:

- whether the breach was self-disclosed fully and promptly;
- the level of cooperation with any inquiries;
- action being taken to improve future compliance.

Penalties for breaches of financial sanctions

Breaches of financial sanctions are considered to be a serious criminal offence.

The following table lists some of the general offences and penalties provided in the sanctions regulations relating to “designated persons”. They may be regarded as indicative of typical offences and penalties provided for throughout sanctions legislation.

You should note, however, that unlawful acts relating to sanctions and individuals, entities, organisations, countries and territories subject to sanctions may also be breaches of export control law (see Notice 279 MAN), trade control law (see Notice 279T MAN), the Proceeds of Crime Act 2008, the Anti-Terrorism and Crime Act 2003 or other provisions in the criminal law.

Offence Summary	Conviction	Conviction on Information
Dealing with funds or economic resources owned, held or controlled by a designated person	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both
Making funds or economic resources available to designated person	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both
Making funds or economic resources available for benefit of designated person	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both
Failure to comply with an information requirement	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both
Intentional participation in activities knowing that the object or effect of them is (whether directly or indirectly) to circumvent any prohibitions, or to enable or facilitate the contravention of any such prohibition relating to a designated person	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both
For the purpose of obtaining a licence, knowingly or recklessly, providing information that is false in a material respect, providing or producing a document that is not what it purports to be, or failing to comply with a condition of a licence	Up to 3 months custody; a fine up to £10,000; or both	Up to 2 years custody; an unlimited fine; or both

ANNEX A

GLOSSARY

Asset freeze	A type of financial sanction. Under an asset freeze it is generally prohibited to: <ul style="list-style-type: none"> • deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person • make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person • engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions
Competent authority	Designated national authorities who implement financial sanctions. The Customs and Excise Division of the Treasury is the competent authority for the Isle of Man.
Consolidated list	List containing designated persons subject to financial sanctions. The Treasury directs Island persons and businesses to use the UK's consolidated list maintained by OFSI: https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets
Customer Due Diligence	Has the same meaning as in the Anti-Money Laundering and Countering the Financing of Terrorism Code, published by the Department of Home Affairs.
Dealing with economic resources	Generally means using economic resources to obtain funds, goods, or services in any way, including (but not limited to) by selling, hiring or mortgaging them.
Dealing with funds	Generally means moving, transferring, altering, using, accessing or otherwise dealing with funds in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
Designated person	A person subject to financial sanctions.
Economic resources	Generally means assets of every kind – tangible or intangible, movable or immovable – which are not funds but may be used to obtain funds, goods or services.
Enhanced Customer Due Diligence	Has the same meaning as in the Anti-Money Laundering and Countering the Financing of Terrorism Code, published by the Department of Home Affairs.
Exemption	Generally found in financial sanctions legislation. An exemption to a prohibition applies automatically in certain defined circumstances and does not require you to obtain a licence.
False positive	The situation where a person you are dealing with partially matches the details of a designated person on the consolidated list. Unlikely to be a target match.
Funds	Generally means financial assets and benefits of every

	<p>kind, including but not limited to:</p> <ul style="list-style-type: none"> • cash, cheques, claims on money, drafts, money orders and other payment instruments; • deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; • publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts; • interest, dividends or other income on or value accruing from or generated by assets; • credit, rights of set-off, guarantees, performance bonds or other financial commitments; • letters of credit, bills of lading, bills of sale; and • documents showing evidence of an interest in funds or financial resources
Goods	Generally means items, materials and equipment.
Licence	A written authorisation from the Treasury permitting an otherwise prohibited act.
Making available funds or economic resources, directly or indirectly, to a designated person	If funds are made available (directly or indirectly) to a designated person, or economic resources are made available (directly or indirectly) that would likely be exchanged, or used in exchange, for funds, goods, or services, this may constitute a criminal offence.
Making available funds or economic resources for the <i>benefit</i> of a designated person	<p>If funds or economic resources are made available for the benefit of a designated person and they obtain, or are able to obtain, a 'significant financial benefit', this may constitute a criminal offence.</p> <p>In this case, 'financial benefit' includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.</p>
OFSI	Office of Financial Sanctions Implementation. Part of HM Treasury and the UK's competent authority for implementing financial sanctions.
Ownership	The possession of more than 50% of the proprietary rights of an entity or having a majority interest in it. Includes both direct and indirect ownership.
Person	Can be a natural person (an individual), or a legal person, body or entity.
Proscription	An organisation proscribed ('banned') under the Anti-Terrorism and Crime Act 2003, and follows the same list maintained in the UK under the Terrorism Act 2000
Reasonable cause to suspect	Refers to an objective test that asks whether there were factual circumstances from which an honest and reasonable person should have inferred knowledge or formed the suspicion.
True Match	The situation where the person you are dealing with matches the details of a designated person on the consolidated list. Likely to be a confirmed match for that person.

Annex B

Licences

Applying for a licence

The Treasury aims to engage with applicants within 4 weeks of receiving an application. This does not mean that a licence will necessarily be issued within 4 weeks. Therefore, you should apply for a licence well before you need it.

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.

1. Any person seeking a licence for the release of funds which are subject to an "asset freeze" is required to submit an application in writing or by email to the Sanctions Officer at Customs and Excise. The application must be supported by evidence to demonstrate that all the criteria of the relevant licensing ground have been met. Generally applicants are required to provide:
 - the licensing ground being relied upon in the application including supporting arguments;
 - details of the sanctions regime applicable to the application;
 - full information on the parties involved in the proposed transaction, e.g.:
 - designated person(s);
 - any financial institution 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.
2. An application may be made in the UK for the release of funds, and if funds are held in the Island this application will be referred to the Sanctions Officer by HM Treasury.
3. The Sanctions Officer will undertake checks to determine the legal provisions involved, and what requirements or restrictions apply in the case of the particular sanctions regime. The Sanctions Officer will also call for checks of intelligence sources by other staff at Customs and Excise, the FIU and FSA. In most cases, HM Treasury will also be consulted. Please note that the Treasury may need to notify, or in some cases seek approval from, the European Commission or the relevant United Nations Sanctions Committee before issuing a licence.
4. Having assembled all relevant information, the Sanctions Officer will forward a report to the Treasury via the Collector. This report will contain details of

the sanctions regime, particulars of who has submitted the application and the reasons given for the application. The report will also recommend whether or not a licence can be and if one should be issued.

5. The decision on issue of any permission or licence is made by the Treasury or, exceptionally, the Minister alone.
6. The report submitted to the Treasury will include a draft licence, if appropriate. If the Treasury concurs with the conclusion of the report that a licence should be issued, the licence will be signed by the Minister and returned to the Sanctions Officer.
7. If the Treasury or Minister agrees the principle of a licence being issued, but wish to have its terms amended, the licence will be returned to the Sanctions Officer. The Sanctions Officer will then carry out such checks and consultation as he/she considers necessary before re-submitting the licence to the Treasury.
8. All licences must be in writing. Oral licences are NOT permitted.
9. If a licence is refused then the Sanctions Officer will write to the applicant and inform them of the decision. As a result the proposed transaction or activities will not be lawful.
10. If a licence is granted the Sanctions Officer will supply a copy to the applicant, with a covering letter providing such other information or explanation as he/she considers necessary.
11. A copy of the licence will also be sent to the FIU (and FSA, if appropriate).
12. The original of the licence and any report(s), correspondence etc. shall be retained in a file by the Sanctions Officer.
13. The Sanctions Officer may inform such other agencies as he/she considers necessary or appropriate.
14. HM Treasury shall be informed by the Sanctions Officer of any licence issued by the Isle of Man. As the competent authority is the Member State responsible for the Island, it would be the function of HM Treasury to notify the UN and/or European Commission, as required.

Amending a licence

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.

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 amendments, variations or extensions will be authorised within the requested timeframe.

Complying with a licence

Licences issued by the Treasury are not published. However, the Treasury expects licence holders to share licences with other parties to the transaction and to answer questions about the permissions granted in the licence in the first instance.

However, 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: customs@gov.im

We will aim to confirm whether it matches the licence in our records within one working day.

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

Refusal of a licence

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

- ask the Treasury to review its decision;
- re-apply with new or supplementary evidence or new supporting arguments;
- seek to judicially review the decision.

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

ANNEX C

10 STEPS TO A SANCTIONS COMPLIANT ENVIRONMENT

- Step 1 ADOPT A TOP-DOWN APPROACH TO COMPLIANCE**
It is vital that there is corporate leadership and board and senior management buy-in - with this commitment clearly and forcefully emphasised to managers, employees, clients and suppliers.
- Step 2 ESTABLISH & MAINTAIN AND OPERATE UP TO DATE POLICIES AND PROCEDURES**
These should be clear and concise policies and procedures (which have been approved by senior management), available to all managers and employees; with clients, customers, suppliers and other third parties made aware of them as appropriate. They must be clearly communicated. They should include clear identification of responsibilities and reporting structures within the organisation, stress the policies of the organisation, including in respect of disclosures, reporting of suspicions and customer due diligence.
- Step 3 ENSURE AWARENESS AND APPLICABILITY OF RELEVANT GUIDANCE**
Guidance is provided by the regulator(s), the FIU, Customs and Excise and the Government as a whole; as well as by relevant UK Government, trade organisations, and other sources (e.g. the EU, UN, OFAC).
- Step 4 UNDERTAKE SCREENING USING UP TO DATE INFORMATION - NAMES**
Using such materials as provided by official bodies (news releases by Customs & Excise, subscribe to the RSS feed, OFSI Consolidated List, FCO, OFAC) and/or private sector organisations (e.g. World-Check, C5, Dow-Jones).
- Step 5 USE OR CONSIDER USE OF OTHER CHECKS AND SCREENING** To protect the organisation against bribery, corruption, trade-based money laundering, terrorist financing, proliferation and proliferation financing. Using information from the UK's [Export Control Joint Unit](#), [Nuclear Supplies Group Guidelines](#), [EU Dual-Use Regulation](#) and [Strategic Export Control Lists](#) etc.
- Step 6 IMPLEMENT A RISK-BASED APPROACH**
There is no easy one size fits all approach that can be adopted. Adopt a risk-based approach and risk assessment process according to business types, customer profiles, countries involved, products and services, delivery channels, degree of practical control available and the supporting evidence. Ensure awareness of risks and of the latest trends, typologies and red flags.
- Step 7 IF IN DOUBT - ASK**
The regulators, FIU and Customs and Excise are there to help; it is better to be safe than sorry.

Step 8 MAINTAIN RECORDS OF CHECKS AND DISCLOSURES

Including “false positives” and contacts with regulators, FIU and law enforcement.

Step 9 TRAIN AND KEEP UP TO DATE

Regularly train and update employees and managers. Consider if (and how) to inform or educate third parties. Ensure your training and in-house knowledge is kept up to date. Require or encourage employees and managers to undertake external compliance training, undertake relevant CPD and to research and prepare training that can be used within the organisation and could be communicated to others outside the organisation. Encourage participation in local and national trade bodies and interaction with official bodies (including in fora such as the AML/CFT Advisory Group and the GSC MLRO Forum).

Step 10 DOCUMENT WHAT YOU DO AND HOW YOU ENSURE ITS ADEQUACY AND RELEVANCE

As well as being useful as a part of any induction and ongoing training, this would also be of use to demonstrate to current or potential clients and customers your competency and commitment, as well as proving your credibility to regulators and other official bodies. It could also prove useful when applying for forms of licensing, authorisation (e.g. if applying for AEO status or the equivalent) or approvals, or when required to demonstrate standards to other outside bodies (e.g. if seeking ISO or similar approvals).

ANNEX D

FREQUENCY ASKED QUESTIONS

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

1.1.1 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.

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

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

1.1.3 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.

1.1.4 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.

1.1.5 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.

1.1.6 Can I use vouchers, coupons or rewards 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.

1.1.7 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.

1.1.8 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.

1.1.9 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.

1.1.10 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 EU 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.

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

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

1.1.12 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.

1.1.13 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).

1.1.14 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.

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

All asset freezes will enable you to maintain one residence for your use. If you are subject to an asset freeze imposed by EU 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.

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

Your ability to pay for private education for your children may be limited. If you are subject to an asset freeze imposed by EU 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.

1.1.17 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.

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

You need a licence because all your funds, or funds made available to you, must be frozen when they enter the EU (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.

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

You may be permitted to use frozen funds in the IOM to pay for expenses outside of the EU 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 EU to meet those expenses before we decide whether to issue a licence.

1.1.20 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.

1.2.1 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.

1.2.2 Can I still receive payments from my customers?

Payments due under contracts made prior to your designation can generally be made into your frozen account where there is a relevant exemption to this effect. Dealings that your business has with customers, after 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.

1.2.3 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.

1.2.4 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.

1.2.5 Can I pay dividends to shareholders?

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

1.2.6 Can I issue new equity or debt?

If payments relating to debt or equity issues are due under obligations arising prior to your business' designation, 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 EU 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.

1.2.7 Can my business' shares be traded by third parties?

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

1.2.8 Can I maintain my business premises?

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

1.2.9 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 EU 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.

1.2.10 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.

1.2.11 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.

1.2.12 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.

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.

2.1 Can I give or lend money to a designated person?

You almost certainly need a licence.

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

You can give or lend money to a family member of a designated person. 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.

2.3 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.

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

You can give a gift to a family member of a designated person. 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.

2.5 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.

2.6 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.

2.7 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.

2.8 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.

2.9 Can I let a designated person stay at my house?

You may allow a designated person to stay at your house for a temporary period without 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.

2.10 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.

2.11 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.

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

You may be able to make a payment due as a result of obligations arising prior to the person being designated, as long as the:

- payment is into a frozen account;
- relevant sanctions regime contains a relevant exemption.

2.13 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.

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

How sanctions apply to your situation will depend on the exact circumstances of the claim and you should consider taking independent legal advice. You may be able to make a payment into a frozen account of the designated person 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 EU 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.

2.15 I am a joint-signatory of an account with a designated person. Can I still access the funds?

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

2.16 I jointly own an asset with a designated person. Can I sell my share?

You are likely to be able to legally sell your share. However, given the complexities of jointly holding assets with a designated person, you should consider taking independent legal advice prior to entering into any agreement to dispose of your share. The Treasury considers that existing licensing grounds under asset freezes, imposed by EU 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.

2.17 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 EU 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.

2.18 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.

2.19 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.

2.20 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.

3 Compliance for businesses and financial institutions

3.1. Business in general

3.1 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 EU, 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 consolidated list is required. The consolidated list does not currently have a fuzzy-matching search facility although one will be introduced later this year. However, standard direct search tools can be used when the lists are in Excel, PDF and HTML formats. 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 OFSI consolidated list?
- 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?

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.

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

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

There are no 'tipping off' provisions in relation to sanctions which prevent you discussing sanctions compliance with any person. In 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.

3.1.2 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.

3.1.3 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.

3.1.4 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 EU 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.

3.1.5 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.

3.1.6 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 EU 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.

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

You need a licence to write off a debt.

3.1.8 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 a debt.

3.1.9 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.

3.1.10 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.

3.1.11 I've made a mistake in how I charged a designated person or realised I gave them poor service. Can I fix the 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.

3.1.12 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.

3.1.13 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.

3.1.14 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 a 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 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.

3.1.15 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 EU 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.

3.1.16 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 EU 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.

3.1.17 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 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.

3.1.18 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

3.2.1 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 licenceholders 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.

3.2.2 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 EU 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.

3.2.3 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.

3.2.4 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.

3.2.5 Can I correct errors in accounts?

If the account was opened prior to designation, and the terms and conditions of operating the account permit you to correct errors, 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.

3.2.6 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 debt 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 debt or credit cards to a designated person under TOCFRA2014, you need a licence to use a credit or debit card.

3.2.7 How do I treat funds being transferred from a designated person, based outside the EU, 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 EU, must be frozen on arrival in the IOM. This policy follows UK and EU 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.

3.2.8 How do sanctions apply to a safety deposit box?

You must freeze safety deposit boxes or secure storage facilities owned, controlled or held by a designated person. 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 EU 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, 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 279T MAN \(Trade Control Licencing\)](#), or contact Customs and Excise.

3.3.1 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.

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

Depending on the precise arrangements, it is likely that the contract 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.

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

An asset freeze imposed by EU 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.

3.3.4 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.

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

If the provision is to a person 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

3.4.1 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 for 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.

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 EU 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.

3.4.2 How quickly must I apply for a licence?

If you are providing legal advice to a person designated under the following, you may use a general licences (if available) to allow for payments of legal aid or for payments by third parties:

- TOCFRA2014;
- EU Council Regulation (EC) No 2580/2001, as it has effect in the Island;
- EU Council Regulation (EC) No 881/2002, as it has effect in the Island.

In relation to other regimes, 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 reimbursements 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.

3.4.3 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.

3.4.4 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.

3.4.5 What fees and disbursements can be licenced?

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

The licensing ground does not permit payments 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.

3.4.6 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.

3.4.7 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.

3.4.8 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.

3.4.9 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 licence as they must be strictly complied with. You should be clear with your client that they can only pay the legal fees permitted by the licence and via the payment route specified in the licence. You should 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.

3.4.10.1 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 EU 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.

3.4.11 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.

3.4.12 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

3.5.1 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.

3.5.2 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.

3.5.3 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.

Part 4 Compliance for nongovernmental 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.

ANNEX E

AMENDMENTS TO THE NOTICE

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