

# Financial Sanctions - Guidance



**Isle of Man**  
**Government**

*Reiltys Ellan Vannin*

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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, United Kingdom and the 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 to 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 **United Kingdom (UK)** imposes financial sanctions, implemented through a combination of statutory instruments (UK regulations) and primary legislation:

- Sanctions and Anti-Money Laundering Act 2018 (SAML A);
- Terrorist Asset-Freezing etc. Act 2010 (TAF A 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 Union and Trade Act 2019 (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 UK Regulations), there are still some Orders which remain in force.

Regulations made under the European Union and Trade Act 2019 apply UK Regulations to the Island ("applied UK Regulations").

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:

| <b>Department/agency role</b>                  |  |
|--|--|
| Treasury (Customs and Excise Division)         | Competent authority for implementing financial sanctions, trade sanctions and embargoes.<br>Investigates and enforces breaches of financial and trade sanctions.<br>Makes designations under TOCFRA 2014.  |
| Financial Intelligence Unit (FIU)              | Authority to whom reports of frozen accounts, designated persons & breaches must be made.<br>Disseminates intelligence to Customs & Excise to investigate financial sanctions issues.  |
| Gambling Supervision Commission                | 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.<br>Issues Anti-money laundering guidance for the gambling sector.   |
| Isle of Man Constabulary (Economic Crime Unit) | Lead agency for terrorism and the financing of terrorism investigations.   |
| Isle of Man Financial Services Authority (FSA) | 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.<br>Issues Anti-Money laundering guidance and undertakes compliance checks with regard to financial sanctions as part of the regulation and oversight of regulated businesses. |
| Department of Home Affairs                     | Responsible for publication of the <a href="#">Anti-Money Laundering and Countering the Financing of Terrorism Code</a> , 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;
- **Restriction 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 the specific sanctions regimes and which types of sanctions apply for each regime 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 sanctions is to maintain the implementation of international sanctions measures in the Isle of Man in line with such measures as have effect in the United Kingdom from time to time.

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.

### Sanctions Lists

The sanctions lists you should refer to are those maintained by the UK Government:

- **the UK Sanctions List**

The UK government publishes the UK Sanctions List, which provides details of those designated under regulations made under the UK Sanctions and Anti-Money Laundering Act 2018 (Sanctions Act). The list also details which types of sanctions measures apply to these persons or ships (e.g. asset freeze, travel ban, port entry ban, prevention of business arrangements etc.), and in the case of UK designations, provides a statement of reasons for the designation

<https://www.gov.uk/government/publications/the-uk-sanctions-list>

- **the Consolidated List**

HM Treasury's Office for Financial Sanctions Implementation provides a consolidated list of persons and organisations under financial sanctions, including those under the Sanctions Act

This only provides the list of persons and entities subject to asset freezes

<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**

This specifically relates to the Russia Sanctions regime. Sectoral financial and investment restrictions are in place which restrict specified activities. These include restrictions on dealing with transferable securities or money-market instruments and granting or entering into arrangements to grant loans or credit.

<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

#### 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 at: <https://www.gov.im/categories/tax-vat-and-your-money/customs-and-excise/news/RssCategorisedNews> by copying and pasting this URL into your RSS feed reader or Microsoft Outlook RSS feeds folder. You can also view our [guidance on how to use RSS Feeds](#).

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>

The [United Nations Security Council](#) offer a mailing list subscription. Requests to subscribe to their sanctions lists should be sent to [sc-sanctionslists@un.org](mailto:sc-sanctionslists@un.org).

#### 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).

### Using the Sanctions Lists

The Sanctions Lists contain a range of information to aid the identification of designated persons. For an individual this can include their:

- aliases
- date of birth
- passport details
- nationality
- last known address
- employment or role.

You may find that the name of an individual or entity you are dealing with matches one or more entries on the Sanctions Lists. This is known as a **name match**. However, it does not necessarily mean that the individual or entity you are dealing with is the same one on the list. If you are satisfied that the person or entity is not the same as the one on the list, you do not need to take further action.

If the individual or entity you are dealing with matches all the information on the Sanctions Lists, this is likely to be a **target match**.

If having consulted the Sanctions Lists you are still unsure on whether you have a target match, you can contact the Treasury for assistance.

### Examples of name and target matches

| Situation   | Assessment        |
|---|-------------------|
| You have a name match for a person who is listed as a Syrian general, commanding troops in Syria at the start of the civil war. However, the person you are dealing with is aged 15 and was born in the UK.                             | <b>Name match</b> |
| You have a name match for an official from the Government of North Korea. However, the man you are dealing with is a retired teacher with a different date of birth. You've also carried out business with him over the last ten years. | <b>Name match</b> |



| <b>Situation</b>  | <b>Assessment</b>   |
|---|---|
| You have a close name match for a person subject to a terrorist asset freeze and they have a similar date of birth but a different address. | Potential <b>target match</b> . You may have identified a new alias being used to circumvent financial sanctions. |

What you are required to do next if you have a target match will depend on the specific sanctions that apply.

#### 4. **Directions – Financial sanctions restrictions**

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).

#### **Asset freezing terminology**

**Funds** generally means financial assets and benefits of every kind, including but not limited to:

- cash, cheques, claims on money, drafts, money orders and other payment instruments
- deposits with financial institutions or other entities, balances on accounts, debts and debt obligations
- publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts
- interest, dividends or other income on or value accruing from or generated by assets
- credit, right of set-off, guarantees, performance bonds or other financial commitments
- letters of credit, bills of lading, bills of sale
- documents showing evidence of an interest in funds or financial resources

- any other instrument of export financing.

**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. This includes but is not limited to:

- precious metals or stones
- antiques
- vehicles
- property

**Goods** generally means items, materials and equipment.

**Crypto assets** – Statutory definitions of “funds” and “economic resources” are wide, as referenced above. Crypto assets are considered to be covered by these definitions and are therefore caught by the financial sanctions restrictions.

**Dealing with funds** generally means moving, transferring, altering, using, accessing, or otherwise dealing with them in any way which would result in any change to their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.

**Dealing with economic resources** generally means using the economic resources to obtain funds, goods, or services in any way, including, but not limited to, by selling, hiring or mortgaging them. The everyday use by a designated person of their own economic resources for personal consumption is not prohibited.

**Making available funds or economic resources, directly or indirectly, to 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 *benefit* of a designated person** – 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.

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.

### **Other financial restrictions**

Financial sanctions regimes may include other restrictions in addition to asset freezes. Where these exist, they will be listed in the individual regime guidance.

### **Financial assistance and processing payments:**

Under UK Regulations the definition of financial assistance differs from the definition used in EU law. Under UK law, financial services covers the previously used “financial assistance”, and this does include processing payments.

Financial services means any service of a financial nature, including (but not limited to) payment and money transmission services, charge and debit cards, travellers’ cheques and bankers’ drafts.

## 5. Reporting obligations

Reporting obligations apply to relevant firms (as defined in the UK regulations and referred to below). There is a requirement for relevant firms to inform the FIU as soon as practicable if it is known or reasonably suspected a person is a designated person or has committed offences under financial sanctions regulations, where that information is received in the course of carrying on their business.

This requirement applies to relevant firms in the IOM or under IOM jurisdiction including individuals working for them.

When reporting to the FIU you must include:

- the information or other matter on which the knowledge or suspicion is based, and
- any information you hold about the person or designated person by which they can be identified.

If you know or have reasonable cause to suspect that a person is a designated person and that person is a customer of your (relevant) firm, you must also state the nature and amount or quantity of any funds or economic resources held by you for that customer.

Examples of the kind of information that is required can be found in Table 5.A.

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

### Relevant firm

Definitions of relevant firms can be found in the 'Information and records' part of the applied UK Regulations for each sanctions regime.

By way of example, relevant firms that are subject to specific reporting obligations include:

- a business in the regulated sector within the meaning of Schedule 4 to the [Proceeds of Crime Act 2008](#)
- a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging articles made from gold, silver, platinum, palladium, precious stones or pearls.

All regulations apply to an Island person or entity who is outside the Isle of Man.

### 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.

| <b>Examples of information to be reported</b>   |  |
|---|--|
| A designated person or entity   | <p>A customer or client of yours is a known or suspected designated person or entity.</p> <p>As well as providing the FIU with any information you hold about the designated person or entity by which they can be identified, if the designated person is a customer or client you must also inform the FIU of the nature, amount, quantity of any funds or economic resources held on behalf of the customer or client, at the time this knowledge or suspicion arose.</p>           |
| Offences  | <p>Exact offences will depend on the relevant legislation, but can include:</p> <ul style="list-style-type: none"> <li>• making funds or economic resources available to a designated person or entity (except where an exception applies or under licence)</li> <li>• dealing with frozen funds or economic resources (except where an exception applies or under licence)</li> <li>• activities that circumvent an asset freeze</li> <li>• breaching licensing conditions</li> </ul> |
| Funds and economic resources  | <p>You must include details of the nature, amount or quantity of any funds and economic resources held.</p> <p>Types of funds or economic resources can include but are not limited to:</p> <ul style="list-style-type: none"> <li>• cash</li> <li>• cheques</li> <li>• postal orders</li> <li>• crypto assets</li> <li>• bond futures</li> <li>• precious metals or stones</li> <li>• vehicles</li> <li>• antiques</li> </ul>   |
| Credits to frozen accounts  | <p>A relevant institution must inform the FIU immediately whenever it credits a frozen account:</p> <ul style="list-style-type: none"> <li>• where it receives funds transferred to it for the purposes of crediting that account</li> </ul>   |
| A relevant firm does not need to inform the FIU when it credits an account with interest or other earnings. |  |

## How to report

Reports of frozen funds and economic resources, information regarding a designated person, and notifications of credits to frozen accounts 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](#).

The FIU and the Treasury will handle all information it receives in compliance with applicable data protection laws.

All reports to the FIU involving a designated person should include their 'Group ID' reference number. The Group ID is a unique identifier for a designated person which can be found in their entry on the Sanctions Lists.

### **Financial Intelligence Unit (FIU) contact details**

Financial Intelligence Unit  
PO Box 51  
Douglas  
Isle of Man  
IM99 2TD  
Telephone: +44 1624 686000  
Email: [fiu@gov.im](mailto:fiu@gov.im)

### **Legal professional privilege**

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

### **Reporting offences**

A relevant firm that fails to comply with its reporting obligations, as set out in the relevant legislation, will be committing an offence, which may result in a criminal prosecution.

### **The Treasury's powers to require information from you**

The Treasury has statutory powers to require you to produce specified documents and provide information for the purpose of:

- establishing the nature and amount or quantity of funds or economic resources, owned, held or controlled by or on behalf of a designated person
- establishing the nature and amount or quantity of funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person
- establishing the nature of any financial transactions entered into by a designated person
- monitoring compliance with or detecting evasion of any provision of financial sanctions regulations including licensing and reporting conditions and obligations
- detecting or obtaining evidence of the commission of an offence.

For a complete list of the Treasury's powers to request information, please refer to the legislation underpinning each particular financial sanctions regime.

When requesting information from you, the Treasury will specify:

- the legislative basis for the request

- the time period within which the information is to be provided (although if no time period is specified, the information which has been requested must be provided within a reasonable time).

In some circumstances the Treasury may specify the manner in which the information should be provided.

Failure to comply with a request for information, including by failing (without reasonable excuse) to provide the information within the specified time (or, if no time has been specified, within a reasonable time), providing false information, destroying documents or otherwise intentionally obstructing the Treasury when exercising these powers is a criminal offence and may result in criminal prosecution.

### **Onward disclosure**

Information received by the Treasury shall be disclosed to third parties in accordance with provisions set out in the Information and Records part of regulations pursuant to the disclosure of information regulation. Any such disclosure must be in compliance with applicable data protection laws.



## 6. Ownership and control

If a person is a designated person their name will be recorded on the Sanctions Lists. An asset freeze and some financial services restrictions will apply to entities (meaning a body of persons corporate or unincorporated, or any organisation or association or combination of persons) 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 Sanctions Lists. However, those entities are similarly subject to financial sanctions.

### Ownership

An entity is owned or controlled directly or indirectly by another person in any of the following circumstances:

- The person holds (directly or indirectly) more than 50% of the shares or voting rights in an entity;
- The person has the right (directly or indirectly) to appoint or remove a majority of the board of directors of the entity; or
- It is reasonable to expect that the person would be able to ensure the affairs of the entity are conducted in accordance with the person's wishes. This could, for example, include:
  - Appointing, solely by exercising one's voting rights, a majority of the members of the administrative, management or supervisory bodies of an 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 an entity, a majority of shareholders' or members' voting rights in that entity;
  - Having the right to exercise a dominant influence over an entity, pursuant to an agreement entered into with that entity, or to a provision in its Memorandum or Articles of Association, where the law governing that entity permits its being subject to such agreement or provision;
  - Having 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 ability to direct another entity in accordance with one's wishes. This can be through any means, directly or indirectly. For example, 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.

If any of the above criteria are met, and the person who owns or controls the entity is also a designated person, then financial sanctions will also apply to that entity in its entirety (meaning these assets should also be frozen). The prohibitions on making funds or economic resources available directly or indirectly to a designated person, also prohibit making them available to an entity who is owned or controlled, directly or indirectly, by the designated person.

#### **Box 6.A: Ownership and Control example relating to entities**

For example, **Entity X** is not listed on the Sanctions Lists. However, your research shows that the majority owner of **Entity X** is designated **Entity Y**.

As the ownership and control criterion has been met, **Entity X** is also subject to the same restrictions as designated **Entity Y**.

**Box 6.B: Ownership and Control example relating to individuals**

For example, **Person A** (an individual) is not listed on the Sanctions Lists. However, your research shows that **Person A** is a family member or friend of designated **Person B** and there is evidence to that **Person B** is using **Person A** to enter into transactions.

As **Person B** is in control of **Person A**, **Person A** is also subject to the same restrictions as designated **Person B**.

**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 and control criteria may not have been met. It will be necessary to consider whether a designated person is in control e.g. because the affairs of the entity are conducted in accordance with the designated person's wishes. If they are, then the ownership and control criteria will be met.

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.

**Joint interests**

For the purposes of the asset freeze a designated person will be taken to own funds/economic resources even if they are owned jointly with another person, or where the designated person only owns part of them. Additionally, a designated person is taken to own funds/economic resources where the designated person's ownership consists of any interest (whether legal or equitable).

If two or more persons hold shares or rights jointly, each of them will be treated as owning those shares or rights. This also applies to joint arrangements where all holders of shares or rights exercise their rights jointly. In this case, all parties subject to the joint arrangement are considered as owning those shares or rights.

You should consider the above when evaluating the shares or voting rights an individual may have in an entity.

When the wording above applies, the jointly owned funds/economic resources should be frozen in their entirety.

**Aggregation**

When making an assessment on ownership and control, Treasury would not simply aggregate different designated persons' holdings in a company, unless, for example, the shares or rights are subject to a joint arrangement between the designated parties or one party controls the rights of another. Consequently, if each of the designated person's holdings falls below the 50% threshold in respect of share ownership and there is no evidence of a joint arrangement or that the shares are held jointly, the company would not be directly or indirectly owned by a designated person.

It should be noted that ownership and control *also* relates to holding more than 50% of voting rights, the right to appoint or remove a majority of the board of directors and it being reasonable to expect that a designated person would be able in significant respects to ensure that the affairs of a company are conducted in accordance with their wishes. If any of these apply, the company could be controlled by a designated person.

## 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.

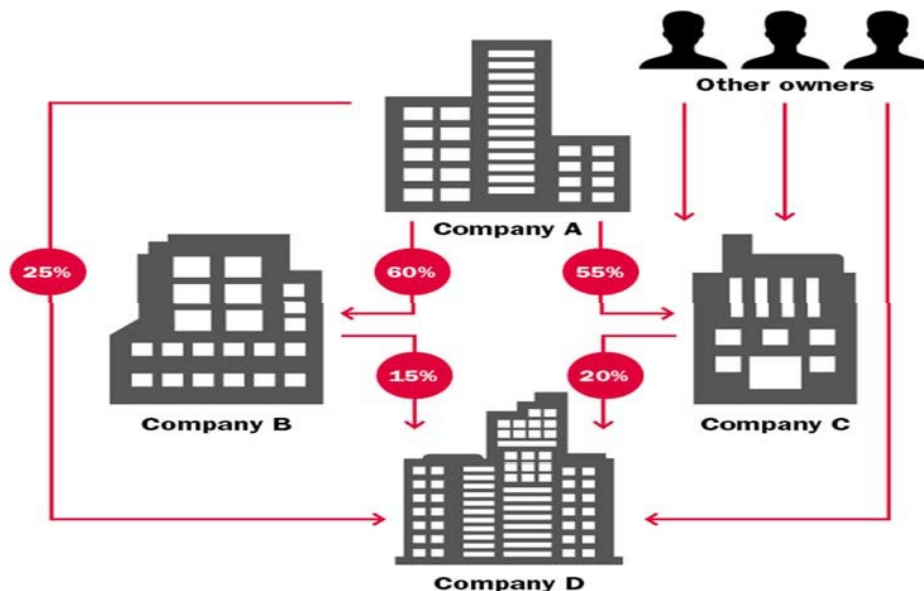
### Examples of complex structures

**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.

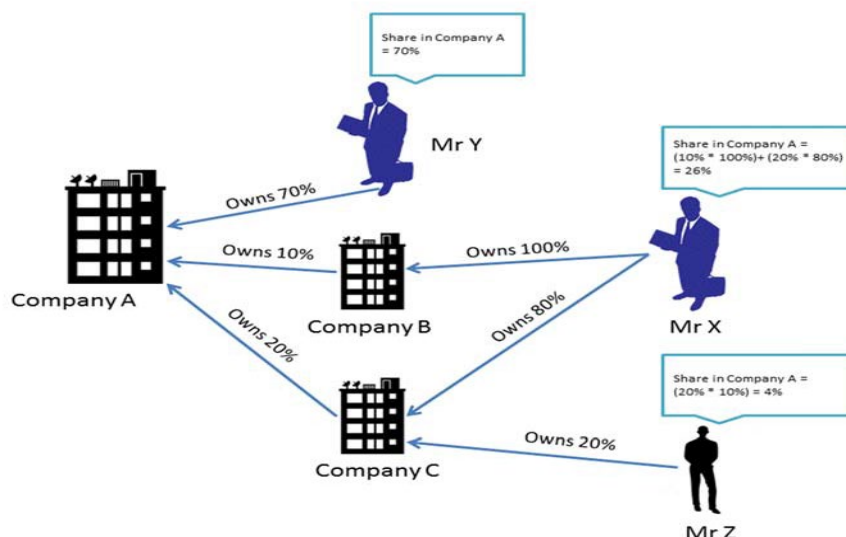
#### Example 1



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.

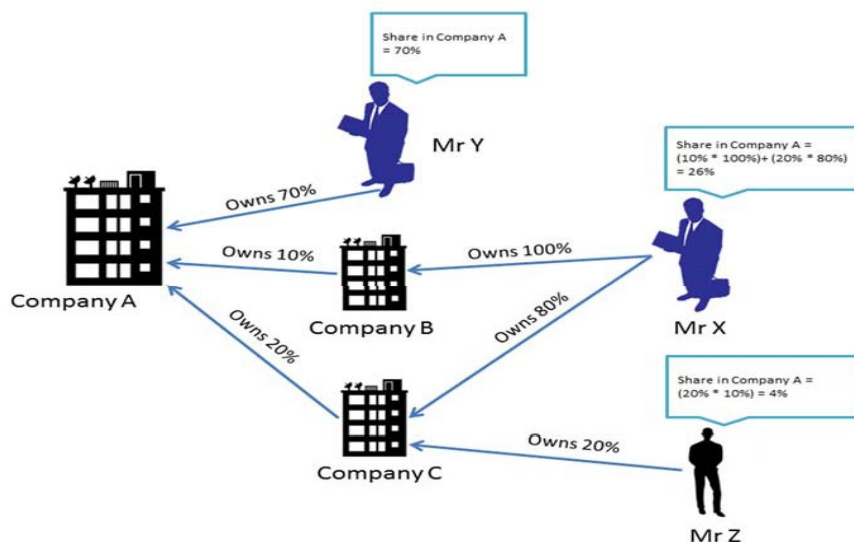
Company D shows a more complex ownership structure: company A owns 25 percent, company B 15 percent and company C 20 percent. This example demonstrates that the 50% rule also applies to accumulated ownership shares, i.e. if company A is sanctioned, then company D with an accumulated ownership share of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

## **8. Exceptions and licensing**

Specific exceptions and licensing powers are contained in the applied UK Regulations and can allow otherwise prohibited transactions and prohibited activity to take place in some circumstances.

A licence is a written permission from the Treasury allowing an act that would otherwise breach prohibitions imposed by financial sanctions.

An exception to a prohibition applies automatically in certain defined circumstances as set out in the regulations and does not require you to obtain a licence from the Treasury.

The following sections provide a general overview of the standard exceptions 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.

### **Crediting frozen accounts**

Asset freezing legislation permits without a licence:

- a relevant firm to credit a frozen account with interest or other earnings due on the frozen account, so long as those funds are frozen immediately;
- a person to transfer funds to a relevant firm for crediting a frozen account where the transfer is in order to discharge obligations that were concluded or arose before the date the person became sanctioned;
- a relevant firm 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 immediately without delay.

### **Independent person holding legal or equitable interest in frozen funds or economic resources**

The legislation creates an exception to allow independent persons to transfer their legal or equitable interests in frozen funds or economic resources to another person, where immediately before the transfer all the provisions of 1-4 below are present:

1. The independent person is not a designated person;
2. The independent person holds the interest in the funds or economic resources;
3. The independent person doesn't hold the interest jointly with a designated person; and
4. The independent person isn't owned or controlled, directly or indirectly by a designated person.

### **Licensing overview**

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

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

See Table Annex B for more information on the Treasury's approach to licensing grounds.

Licences **cannot** be issued retrospectively. If you have carried out an act that required a licence, without having obtained one beforehand, you may have breached financial sanctions and you should consult Chapters 5 and 12 of this guide immediately.

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

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

### **General licences**

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

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

Details of active general licences and accompanying guidance will be made available on the Customs and Excise website.

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

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

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

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

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



## **Treasury general licences**

### **Applying for a specific licence**

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

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

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

The Treasury does not charge for licences.

### **Submitting an application**

Applicants should use this form:

[CEM 85 MAN: Sanctions Licence Form](#)

Applicants will generally be required to provide:

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

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

#### **Tips for applicants**

1. Read this guide and the up-to-date version of the relevant legislation
2. Identify the appropriate licensing ground
3. Use the licence application form on our website (you may wish to seek legal advice to support this process)
4. Provide a clear description of the payment chain and all parties involved

5. Ensure that all relevant information and supporting evidence is included with the application
6. Apply for the licence at least four weeks in advance
7. Be available to fully engage with the Treasury on your application
8. Where applicable, make sure your bank is aware of the situation

### **Specificity in licensing**

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

### **Counter-terrorism regimes**

If you are seeking a licence under either the Terrorism and Terrorist Financing or the ISIL (Da-esh) and Al-Qaida organisations regime, you should email OFSI ([ofsi@hmtreasury.gov.uk](mailto:ofsi@hmtreasury.gov.uk)) setting out the full details of the proposed transaction.

OFSI's licensing policy for the counter-terrorism regime can be found on GOV.UK: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/511692/Terrorism\\_licensing\\_policy\\_revised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/511692/Terrorism_licensing_policy_revised.pdf)

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

### **Licensing timeframes**

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

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

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

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

### **Urgent and humanitarian cases**

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

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

## Notification and approvals

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

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

## Amending licences

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

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

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

**You must not carry out any action(s) which are not authorised by a valid licence. For example, if a licence has expired or you have reached a cap on permitted spending, further activity may not be lawful. Any such actions will be considered a breach of financial sanctions and may result in a criminal prosecution.**

## Refusal of a licence

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

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

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

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

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

## Other jurisdictions

Licences issued by the Treasury only apply to actions subject to IOM jurisdiction. If the prohibited activity engages another jurisdiction you should consider what provisions you may need to comply with within their requirements. For instance, if a payment will pass through

several jurisdictions you may need to apply for a licence from each of those countries' competent authorities.

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

### **Complying with a licence**

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

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

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

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

### **Reporting conditions**

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

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

### **Existing licences issued under previous regimes**

Specific licences issued by the Treasury which were in effect immediately prior to the entry into force of the applied UK Regulations will continue to have effect after the entry into force of the applied UK Regulations. Such existing licences will be treated as if they had been issued under the relevant applied UK Regulations. This means that you can continue to rely on existing licences issued by the Treasury until they expire.

Any applications for new specific licences and for amendments to existing specific licences which have been validly made before the entry into force of the applied UK Regulations, but which have not been determined by the Treasury by that date, will be treated as applications made under the relevant applied UK Regulations. This means that you will not be required to submit a new application.

### **Travel to the IOM**

Designated persons who are not subject to a travel ban and who are planning to visit the IOM should apply to the Treasury for an appropriate licence authorising any proposed use of funds or economic resources to support themselves while in the country.

If a visa application is also required, the licence application should include a request for permission to pay any visa application fees. The granting of a licence does not guarantee that the person will be granted a visa.

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

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

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

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

### **Export licences**

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

## 9 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 person.

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 accounts 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 Sanctions Lists.

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 listing

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/securitycouncil/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/securitycouncil/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](mailto:sanctions@fco.gov.uk)

### UK listings

If you are a designated person (other than a person designated under a UN list), you, or a person acting on your behalf, have the right to request a revocation or variation of your designation. You may wish to request a revocation, for instance, if you believe that the reasons for your designation are incorrect, or a variation if, for instance, particular information associated with your designation, such as your date of birth, is incorrect. Other reasons for seeking a revocation could include if you believe your designation is inappropriate having regard to the purpose of the regime, or the likely significant effects of the designation, or it is incompatible with the Human Rights Act 1998.

For further information, including eligibility to apply for a variation or revocation of a designation, submitting a sanction challenge form and other information, consult the Foreign and Commonwealth Office guidance.

### 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 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](mailto: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.

Offences relating to the principal prohibitions under the applied UK Regulations carry a maximum of 7 years' imprisonment on indictment and, on summary conviction, a maximum of 12 months' imprisonment.

For exact penalties, please consult the relevant 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.

## Annex A

### Glossary

|                                 |   |
|---------------------------------|---|
| Asset freeze                    | <p>A type of financial sanction. Under an asset freeze it is generally prohibited to:</p> <ul style="list-style-type: none"> <li>• deal with the frozen funds or economic resources, belonging to or owned, held or controlled by a designated person</li> <li>• make funds or economic resources available, directly or indirectly, to, or for the benefit of, a designated person</li> <li>• engage in actions that, directly or indirectly, circumvent the financial sanctions prohibitions</li> </ul> |
| 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               | <p>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:</p> <p><a href="https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets">https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets</a></p>   |
| 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.   |
| Exception                       | Generally found in financial sanctions legislation. An exception 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 Sanctions Lists. Unlikely to be a target match.   |
| Funds                           | <p>Generally means financial assets and benefits of every kind, including but not limited to:</p> <ul style="list-style-type: none"> <li>• cash, cheques, claims on money, drafts, money orders and other payment instruments;</li> <li>• deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;</li> <li>• publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates</li> </ul>                       |

|  |   |
|--|---|
|  | <p>representing securities, bonds, notes, warrants, debentures and derivatives contracts;</p> <ul style="list-style-type: none"> <li>• interest, dividends or other income on or value accruing from or generated by assets;</li> <li>• credit, rights of set-off, guarantees, performance bonds and other financial commitments;</li> <li>• letters of credit, bills of lading, bills of sale; and</li> <li>• documents showing evidence of an interest in funds or financial resources</li> </ul> |
| 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 benefit 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 Sanctions Lists. Likely to be a confirmed match for that person.  |



## Annex B

### Licensing grounds

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

#### The Treasury's approach to licensing grounds

| Licensing ground                         | The Treasury's approach   |
|--|---|
| Basic needs                              | <ul style="list-style-type: none"> <li>The legislation confirms that the ground is present to enable the basic needs of a designated person, or (in the case of an individual) any financially dependent family member of such a person to be met.</li> <li>Expenditure to meet basic needs of an individual should be expenses which are necessary to ensure that designated persons or financially dependent family members are not imperilled.</li> <li>In respect of a person other than an individual e.g. <b>an entity</b>, the legislation confirms that basic needs <i>includes</i>: <ul style="list-style-type: none"> <li>payment of insurance premiums</li> <li>payment of reasonable fees for the provision of property management services</li> <li>payment of remuneration, allowances or pensions of employees</li> <li>payment of tax</li> <li>rent or mortgage payments</li> <li>utility charges</li> </ul> </li> <li>The list of basic needs detailed above is not exhaustive but is indicative of the type of basic needs intended to be caught. Therefore, expenditure to meet the basic needs of an entity should be expenses strictly necessary to ensure the continued existence of the designated entity.</li> <li>Basic needs licences do not necessarily enable a designated person to continue the lifestyle or business activities they had before they were designated.</li> </ul> |
| Fees for the provision of legal services | <ul style="list-style-type: none"> <li>Both legal fees and disbursements must be reasonable. It is for the applicant to demonstrate to the Treasury that the legal fees and disbursements are reasonable.</li> <li>You can provide legal advice to or act for a designated person without a Treasury licence, however, you cannot receive any payment for that advice without first obtaining a Treasury licence.</li> <li>The Treasury can only authorise payment of reasonable legal fees and disbursements in relation to legal services provided to a designated person. You are strongly encouraged to apply for a licence in advance of providing substantive legal services in order for you to have certainty as to the fees that will be recoverable whilst the designated person remains listed.</li> <li>In support of your application, you should: <ul style="list-style-type: none"> <li>provide an estimate of the anticipated fees and/or fees that have already been incurred;</li> </ul> </li> </ul>  |

|  |  |
|--|--|
|  | <ul style="list-style-type: none"> <li>○ provide a breakdown of how the fees will be charged and/or have been charged; and</li> <li>○ identify any disbursements, such as payments for counsel and/or expert witnesses.</li> <li>• The Treasury considers that the Rules of the High Court of Justice 2009 or the sums that could be expected to be recouped if costs were awarded, provide a useful starting point for assessing the reasonableness of legal fees and disbursements.</li> <li>• If you are seeking fees of a level in excess of those, you need to demonstrate why those increased fees are reasonable in the given case.</li> <li>• Fees and disbursements must relate specifically to the provision of legal advice, involvement in litigation or in dispute resolution.</li> </ul> |
| Routine maintenance of frozen funds and economic resources | <ul style="list-style-type: none"> <li>• The fees or service charges must be reasonable and result in routine holding or maintenance of frozen funds or economic resources.</li> <li>• The re-design, refurbishment or redevelopment in order to improve the value of a frozen economic resource is generally not covered, although each application will be considered on a case by case basis.</li> </ul>  |
| Extraordinary expenses                                     | <ul style="list-style-type: none"> <li>• This must be extraordinary in nature (not recurring and unavoidable).</li> <li>• It cannot be used where other licensing grounds are more suitable or as a way of avoiding the clear limitations of those other grounds.</li> </ul>   |
| Pre-existing judicial decisions etc                        | <ul style="list-style-type: none"> <li>• This enables the use of frozen funds or economic resources that are the subject of a judicial decision or lien which was established before the date of designation and enforceable in the IOM. The use of the funds or economic resources must be to implement or satisfy in whole or in part the pre-existing judicial decision or lien and cannot be for the direct or indirect benefit of a designated person.</li> </ul>   |
| Humanitarian assistance activity etc                       | <ul style="list-style-type: none"> <li>• This enables payments to facilitate: <ul style="list-style-type: none"> <li>○ any humanitarian activity; or</li> <li>○ where applicable, any activity where its purposes are consistent with the objectives of UN Security Council Resolutions (which will be set out in the applicable Sanctions Act regulations).</li> </ul> </li> <li>• Humanitarian assistance includes the work of international and non-governmental organisations carrying out relief activities for the benefit of the applicable civilian population, which may include the delivery of humanitarian aid or peace-building programmes.</li> <li>• A licence may still be required even if this activity is using government funds.</li> </ul>  |
| Diplomatic missions  | <ul style="list-style-type: none"> <li>• This enables anything to be done in order that the proper functions of a diplomatic mission or consular post or an international organisation enjoying immunities in accordance with international law, may be carried out.</li> </ul>  |
| Extraordinary situations                                   | <ul style="list-style-type: none"> <li>• This applies to non-UN designated persons and enables anything to be done to deal with an extraordinary situation. This will enable a situation which is extraordinary in nature but does not necessarily involve an expense.</li> </ul>  |

|                   |   |
|-------------------|---|
|                   | <ul style="list-style-type: none"> <li>• This may, for example, allow for funds to be released to support disaster relief or provide aid in extraordinary situations. It cannot be used where other ground are more suitable or as a way of avoiding the clear limitations of other grounds.</li> </ul>                         |
| Prior obligations | <ul style="list-style-type: none"> <li>• The obligation must have arisen prior to the date of designation and cannot relate to trade provisions (specified in the regulations). In addition, it cannot result in funds or economic resources being made available (directly or indirectly) to the designated person.</li> </ul> |

## 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, CS, 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, 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 for a 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

### Frequently 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 reward points to pay for things?  
Vouchers, coupons or reward points are considered to be funds and fall within the asset freeze. Therefore, you need an exemption or a licence issued by the Treasury to accept

and use vouchers, coupons or reward points. If you are designated under TOCFRA2014, you need a licence to use vouchers, coupons, or reward points.

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 UK Regulations applicable to the IOM are unlikely to allow such activity to be permitted. Applications for licences in relation to asset freezes imposed by IOM law will need to demonstrate that such activity is in line with the licensing policy for that regime.

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 UK Regulations that are applicable to the IOM, it is the Treasury's view that the basic needs licensing ground only requires one residence to be maintained for use. Licences may be granted for routine maintenance and fees associated with holding other properties. However, this is limited to what is strictly necessary to prevent the property from deteriorating. If you are subject to an asset freeze imposed by IOM law, you need to demonstrate that such activity is in line with the licensing policy for the regime.
- 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 UK regulations that are applicable to the IOM, it is the Treasury's view that, generally, private education will not be considered to be a basic need where there is a suitable state school alternative available. There may be licensing grounds which permit the payment of private school fees to the end of any current contract, or to the end of the academic year, to minimise disruption to the child. The Treasury will judge licence requests on a case-by-case basis, taking into account the needs of the children. If you're subject to an asset freeze imposed by IOM law, you need to demonstrate that such payments are in line with the licensing policy for the regime.
- 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 UK in the Island?  
You need a licence because all your funds, or funds made available to you, must be frozen when they enter the UK (which for this purpose includes the IOM). The Treasury considers applications for licences to use funds in these circumstances on the same basis as if the funds had initially been held in the IOM.
- 1.1.19 Can I use frozen money in the Island to pay for things outside of the UK?  
You may be permitted to use frozen funds in the IOM to pay for expenses outside of the UK under a licence issued by the Treasury. Generally, the Treasury will require you to demonstrate that you do not have access to unfrozen funds outside of the UK to meet those expenses before we decide whether to issue a licence.
- 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 imperiled.

### **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 imperiled. 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 UK Regulations which are applicable to the IOM, and licensing policy for asset freezes imposed by IOM law, are unlikely to permit the issuing of new equity or debt except in the most exceptional circumstances.

### **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 UK Regulations which are applicable to the IOM, and licensing policy for asset freezes imposed by IOM law, are unlikely to permit significant refurbishment for presentational or business promotion reasons.

- 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 UK regulations which are applicable to the IOM are unlikely to allow such activity to be permitted. However, if the nature of the business which has been designated is property management, the Treasury's view is that limited portfolio management may be permitted under the 'basic needs' licensing ground, to ensure that the business is not imperiled. 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 UK Regulations applicable in the IOM, you cannot incur liability for failing to undertake an action, if financial sanctions prevent you from undertaking that action. This protection will not apply where a licence is available to allow you to undertake that action.
- 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 UK Regulations applicable in the IOM, are unlikely to permit the sale of your share to:

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

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

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 UK Regulations applicable in the IOM are unlikely to permit the sale of your share to:

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

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

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 UK and the Island. While anti-money laundering and anti-corruption systems and controls can be integrated with your sanctions compliance systems, there are important differences in terms of the:

- lists to be considered;
- specific prohibitions which also need to be expressly considered.

The Treasury does not require businesses to buy particular software to screen against the sanctions lists. Businesses may find it cost-effective to use specialised software from third parties where, for example, the business is of the view that considerable checking against the Sanctions Lists is required. A Financial Sanctions search website can be found at <https://sanctionssearchapp.ofsi.hmtreasury.gov.uk> and includes fuzzy matching search facilities using the sanctions lists.

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

- does the search facility include the Sanctions lists?
- how often does the search facility or screening software update the list?
- does the search facility or screening software offer fuzzy matching, enabling differences in spelling, name reversal and number removal to be identified?

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 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 UK level, there are likely to be clear licensing grounds for such payments where the obligations to make the payment arose before the person was designated. If you entered into a contract with a designated person after their designation without a licence in place, or the asset freeze relates to any of the IOM asset freeze regimes (including TOCFRA2014), please contact the Treasury for further advice. A licence does not compel a person to make a payment. If the designated person does not wish to pay you, you may need to take legal action to enforce the debt. Instituting legal action is not prohibited by sanctions. However, you need a licence to enforce any judgment or settlement agreement.

- 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 UK regulations applicable in the IOM, you can't incur liability for failing to undertake an action, if financial sanctions prevent you from undertaking that action. This protection will not apply where a licence is available to allow you to undertake that action.
- 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 the 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 my accounting mistake, reimburse my over-charging or give them a refund?  
You need a licence to correct the mistake, reimburse or provide a refund to a designated person. However, if such actions were expressly permitted under obligations which arose prior to the person's designation and the payment is into a frozen account, a licence is not required. This is provided the legislation which imposes the asset freeze has the relevant exemption.
- 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 licence, which is something that businesses might do. The extent to which you can operate your business under the asset freeze is more restricted than prior to your co-owners' designation. We encourage you to seek independent legal advice, or to contact the Treasury, if you are unclear about needing a licence.

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

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 UK regulations applicable in the IOM, are unlikely to permit the sale of your share to the designated person or to a third party who has agreed to hold it for the benefit of the designated person. For TOCFRA2014, an application for a licence would be considered on a case-by-case basis.

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 UK regulations applicable in the IOM, are unlikely to permit such a sale. For domestic asset freezes imposed by IOM law, an application for a licence would be considered on a case-by-case basis.

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

### 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 licence holders and designated businesses regarding checks to be undertaken to determine if customers (including beneficial owners and controllers where appropriate) are subject to sanctions and to consider sanctions when risk assessing and monitoring customers. The Isle of Man FSA assesses the effectiveness of this during supervisory and oversight visits.

### 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 UK Regulations applicable in the IOM, to permit such an action are limited. Whether they can be used will depend on the specific circumstances of the case. Applications for licences in relation to asset freezes, imposed by IOM law, will need to demonstrate that such activity is in line with the licensing policy for the regime.

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

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

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

Funds can only be released if a licence is obtained.

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

There are certain restrictions on the provision of insurance:

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

#### **TOCFRA2014**

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

#### **Syria**

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

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

### **Trade sanctions**

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

#### **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 UK regulations do not:

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

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

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

If you are making an assessment on whether to discontinue cover to a designated person, you should take into account the potential social harm that might be caused if you terminate a contract that is:

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

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 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 UK markets, providing advice on how this affects a business will be permitted. However, preparing documents to raise such capital may amount to an attempt to circumvent sanctions.

#### 3.4.2 How quickly must I apply for a licence?

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

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

The licensing ground does not permit payments for any other services, even if these have been paid for by a law firm. These restrictions apply even if a third party is paying for the legal fees.

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

are aware that any funds must remain frozen and that any receipts or payments must be strictly in accordance with the licence.

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

You cannot comply with a court order that conflicts with sanctions obligations. To do so would be a breach of the sanctions legislation. You should consider whether:

- a licence is available to allow you to comply with the court order;
- the court should be made aware of the financial sanctions;
- you should ask for the order to be amended.

The bringing of a claim, either on behalf of or against a designated person, is not prohibited by sanctions. Nor is it a breach of sanctions for a court or arbitrator to adjudicate on the claim. However, the claim can only be settled or the court judgment/arbitration order enforced where there is a licensing ground to allow this to happen. Whether there is a licensing ground available depends on the specific facts of the case and the sanctions regime under which the asset freeze applies. If a court has ordered a judgment in favour of a person subject to an asset freeze, under UK Regulations applicable in the IOM, and there are no licensing grounds to allow the payment to be made, the third party cannot be made subject to any further liability (such as accruing interest) for their non-payment while the sanctions continue to apply.

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 non-governmental organisations (NGOs)/charity sector**

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

To facilitate the passage of humanitarian goods 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.