Central African Republic Sanctions - Guidance

Isle of Man Government

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Introduction

The Treasury has issued this guidance to assist in the implementation of, and compliance with the Central African Republic (Sanctions) (EU Exit) Regulations 2020, as those Regulations have effect in the Isle of Man.

The policy of the Isle of Man Government is to maintain the implementation of international sanctions measures in the Isle of Man in line with such measures have effect in the United Kingdom from time to time.

Legislation

The Central African Republic (Sanctions) (EU Exit) Regulations 2020 have effect in the Isle of Man by the Central African Republic Sanctions (Application) Regulations 2020 [SD 2020/0481] ("the Regulations").

This document contains guidance on the prohibitions and requirements imposed by the Regulations. In addition it provides guidance on best practice from complying with the prohibitions and requirements; the enforcement of them; and circumstances where they do not apply.

Further guidance

This document should be read alongside the Financial Sanctions guidance.

Contact details for enquiries

Enquiries concerning this Notice may be made by –

- Email customs@gov.im
- Telephone 01624 648109

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1. Prohibitions and requirements imposed by the Regulations

These Regulations impose financial, trade and immigration sanctions for the purpose of encouraging the resolution of the political crisis and armed conflicts in the Central African Republic.

In order to achieve their stated purposes, the Regulations impose a number of prohibitions and requirements in order to enforce these, the Regulations establish penalties and offences. These are set out in detail in the Annex.

The sanctions imposed by these Regulations apply within the territory of the Isle of Man (IOM) and in relation to the conducts of all Island persons wherever they are in the world. Island person includes -

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British overseas citizen who is resident in the Isle of Man;

(b) a person who under the British Nationality Act 1981 (of Parliament)[1] is a British subject who is resident in the Isle of Man;

(c) a British protected person within the meaning of that Act who is resident in the Isle of Man; or

(d) a body incorporated under the law of the Isle of Man;

It is prohibited to intentionally participate in any activities if you know that the object or effect of them is to directly or indirectly circumvent the prohibitions imposed by these Regulations or to enable or facilitate the contravention of those prohibitions.

If you are unclear about any aspects of the Regulations, in particular about whether action you are considering taking could contravene these Regulations, you are advised to seek independent legal advice.

Prohibitions and requirements for the financial and immigration sanctions contained in these Regulations are set out below.

1.1 Designation of persons

Where the UK Secretary of State has designated a person, that designation also has effect in the Isle of Man from the same time, and any variation or revocation of the designation will also have effect in the Island. The reasons for designation include, for example, serious human rights violations or abuses, violations of international humanitarian law and acts that threaten the peace, stability or security of the Central African Republic.

When these Regulations are in force a list of those persons designated under these Regulations and details of the sanctions in respect of which they have been designated, will be on GOV.UK

[1] 1981 Chapter 61.

1.2 Financial Sanctions

Asset Freeze
The Regulations impose financial sanctions through a targeted asset freeze on designated persons. This involves the freezing of funds and economic resources (non-monetary assets, such as property or vehicles) of designated persons and ensuring that funds and economic resources are not made available to or for the benefit of designated persons or entities, either directly or indirectly.

More information on asset freezes can be found in the Financial Sanctions guidance.

1.3 Trade Sanctions

The Regulations impose trade prohibitions relating to military goods and technology (as specified in Schedule 2 to the Export Control Order 2008). It is also prohibited for a person to provide technical assistance, armed personnel, financial services or funds or associated brokering services, where such provision enables or facilitates the conduct of armed hostilities in the Central African Republic. There are circumstances (set out in the relevant lists of controlled items) in which certain items are not controlled, such as for example, when body armour or a helmet is accompanying a person for that person's own protection. Please check the relevant lists as applicable.

For general guidance on export controls and trade sanctions, visit the Export Control Joint Unit website (the Isle of Man imposes the same export and trade controls as the UK).

1.4 Immigration Sanctions

The effect of the Regulations is to impose a travel ban on persons who are designated by the UK Secretary of State. Such persons are excluded persons for the purposes of section 8B of the Immigration Act 1971 (as that Act has effect in the Isle of Man).

This means that those individuals will be refused leave to enter or remain in the UK/IOM. Any applications they make for a visa to travel to the UK/IOM, including for transit purposes, will be refused. A foreign national who is subject to a travel ban under the Regulations, and is currently in the UK/IOM, will have their permission to stay in the UK/IOM cancelled and steps will be taken to remove them.

If you are the subject of an immigration sanction and try to travel to the UK/IOM, carriers are required to deny you boarding.

1.5 Information and record keeping

Part 7 of the Regulations places obligations on relevant firms (the definition of which is set out in the Regulations) to report information to the Treasury about known or suspected designated persons or about persons who may have committed an offence under specified provisions of the Regulations. The Treasury has designated the Financial Intelligence Unit (FIU) as the body to whom reports should be made, via THEMIS.

It also grants powers to the Treasury to request information from, amongst others, a designated person, including powers to request the production of documents. It also establishes offences for failing to comply with these requests (including providing false information in respect of licences).

Part 7 also establishes information powers and record-keeping responsibilities in relation to the trade sanctions contained in the Regulations. It provides for offences for failing to comply with any of those requirements or intentionally obstructing an official in the exercise of those powers.

If you have obligations or responsibilities under Part 7 of these Regulations, it is important that you familiarise yourself with them. If you are unclear of your obligations or responsibilities, you are advised to seek independent legal advice.

2. How will these sanctions measures be enforced?

The Regulations make it a criminal offence to contravene the trade and financial sanctions, as well as to enable or facilitate a contravention of, or to circumvent, any of the prohibitions in the Regulations. They also set out the penalties that apply to such offences.

In addition to the below, further details on offences and penalties can be found in the Annex.

2.1 Financial Sanctions

Breaches of financial sanctions are a serious criminal offence. Any breach of the main financial prohibitions in the Regulations carries a maximum sentence of 7 years' custody or a fine (or both).

Committing an offence under regulations 39(6) or 43 (information offences in connection with financial sanctions under the Regulations) carries a maximum sentence of 6 months' custody or a fine (or both).

The Treasury is responsible for monitoring compliance with financial sanctions and investigating suspected breaches.

The Treasury works with other parts of government, supervisory bodies and regulators to consider all cases reported to it, sharing relevant information accordingly.

If you find out that a person or organisation you are dealing with is subject to the financial sanctions detailed in the Regulations, you must immediately:

- stop dealing with them
- freeze any assets you're holding for them
- inform the FIU as soon as possible.

More detailed information on the Treasury's approach to compliance and enforcement can be found in the Financial Sanctions Guidance.

2.2. Trade Sanctions

Any breach of the prohibitions relating to the trade sanctions contained in the Regulations is triable either way and carries a maximum sentence of 10 years' custody or a fine (or both).

The Treasury is responsible for enforcing the trade prohibitions and investigating suspected offences.

If you discover that you have breached any of the trade prohibitions, you should report the irregularity to the FIU as soon as possible.

You should provide:

- details of the export or transaction, including dates
- any relevant documents, such as export documentation and commercial invoices

- details of how the breach was discovered, why it occurred and what steps you have put in place to ensure it does not happen again.

3. Are there circumstances when I can get an authorisation or licence for a sanctioned activity?

Licensing and exception provisions are contained in Part 6 of the Regulations.

3.1. Exceptions

The Regulations set out the exceptions to some of the sanctions prohibitions which apply within certain defined circumstances. An exception applies automatically, and does not require you to obtain a licence.

The Regulations establish exceptions relating to financial sanctions including for the crediting of a frozen account, providing that any such interest or other earnings are frozen in accordance with the relevant legislation underpinning the asset freeze. An exception also exists for when funds are transferred to a relevant institution for crediting to an account held or controlled by a designated person in discharge (or partial discharge) of an obligation which arose before the recipient became a designated person.

Regulation 31A establishes an exception to regulations 12 to 16 which provides that prohibitions are not contravened if conduct is authorised by a licence which is issued under the law of the United Kingdom, the Channel Islands, or any British Overseas Territory for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.

The Regulations also include an exception in relation to any prohibition or requirement imposed by these Regulations for acts done for the purposes of national security or prevention or detection of serious crime.

These exceptions do not apply to all prohibitions. If you are unsure whether an exception applies in your circumstances, you are advised to seek independent legal advice.

3.2. Licensing for financial sanctions

Where a person has been designated for the purposes of financial sanctions and had their assets frozen, the designated person or a representative may apply for a licence from the Treasury in order to be able to utilise their funds or economic resources (non-monetary assets, such as property or vehicles). Schedule 2 to the Regulations sets out the purposes pursuant to which, or for which activities, the Treasury may grant an individual licence. In summary these are:

- basic needs
- reasonable legal fees or reasonable expenses associated with the provision of legal services
- reasonable fees for the routine holding or maintenance of frozen funds and economic resources
- extraordinary expenses
- pre-existing judicial decisions etc.
- prior obligations

- diplomatic missions
- extraordinary situations

Further information on exemptions and licensing grounds can be found in the Financial Sanctions Guidance.

3.3 Licensing for Trade Sanctions

Licenses may also be issued for certain trade activities that would otherwise be prohibited by the Regulations.

The Treasury is responsible for administering the licensing provisions for all trade sanctions. In exercising these powers, the Treasury seeks and considers advice from other Isle of Man and United Kingdom government departments.

In making decisions on whether to grant a licence to permit something which would otherwise be prohibited under Part 6 of the Regulations, the Treasury will consider each application on a case-by-case basis to determine whether granting a licence would be consistent with the stated purposes of the sanctions regime and any UN or other relevant international law obligations.

For some prohibitions there are specific activities which the UK's Department for International Trade considers are likely to be consistent with the aims of the sanctions. These can be found here (section 3.3). If you think that your proposed activity falls within one of these specific descriptions you should make this clear and explain why you believe this to be the case in your application for a licence.

You should not assume that a licence will be granted or engage in any activities prohibited by the trade sanctions until your licence has been granted.

When you export goods, you may need to submit an electronic export declaration via the National Export System (NES), part of the Customs Handling of Import and Export Freight (CHIEF) system. Guidance is available on how to make an export declaration

3.4 Overlap with strategic export licensing

Military goods and technology
Please note that the export of and other trade in military goods and technology is also controlled under the Export Control Order 2008 and so you may also need a licence which is valid under that legislation. This means that all licence applications relating to military goods and technology will also need to be considered against the strategic export licensing criteria. A licence under these Regulations is unlikely to be granted if a licence is refused for the same activity under the Export Control Order 2008.

The way this will work in practice is that we will consider an application for a licence which relates to activities that are licensable under both these Regulations and the Export Control Order 2008 as an application under both pieces of legislation. This means that only a single licence application is required.

The application will be considered against the relevant licensing criteria. If a licence is granted it will be valid under both the Export Control Order 2008 and these Regulations.

Overlap between trade sanctions and financial sanctions
If you import or export goods, you need to consider if financial sanctions apply to you. For instance, where your licensable trade activity may also be making funds or an economic

resource available to, or for the benefit of, a designated person. You may need a licence from the Treasury as well as from the UK's Export Control Joint Unit.

3.5 Directions in respect of immigration sanctions

If you are subject to immigration sanctions the Home Office may direct, on a case by case basis, that the sanction does not apply in particular circumstances, such as for travel to, or through, the UK/IOM for a UN sponsored meeting.

4. Further information

Sign up to receive Notices to Exporters for updates on trade sanctions.

To receive an email alerting you to any changes to the consolidated list of financial sanctions targets, you can subscribe to the Customs & Excise News feed

Annex

Table of financial sanctions offences

Type of Sanctions offences	**Specific offence**	**Relevant prohibition or requirement**	**Maximum penalty**
Breach of sanctions	1. Dealing with funds or economic resources owned, held or controlled by a designated person 2. Making funds available directly or indirectly to a designated person 3. Making funds available for the benefit of a designated person 4. Making economic resources available directly or indirectly to a designated person 5. Making economic resources available for benefit of a designated person	1. reg. 12 2. reg. 13 3. reg. 14 4. reg. 15 5. reg. 16	Liable on summary conviction - • to custody for a term not exceeding 12 months, or to a fine not exceeding level 5 on the standard scale, or to both. Liable on conviction on information - • to custody for a term not exceeding 7 years or to a fine, or to both.
Circumvention etc. of prohibitions	Circumventing directly or indirectly the prohibitions of regs. 12-16 (Part 3 Finance) or enabling the contravention of prohibitions.	reg. 17	
Breach of requirements under Treasury licences	1. Knowingly or recklessly providing false information or providing a document that is not what it purports to be for the purpose of obtaining a Treasury licence 2. Failing to comply with the conditions of a Treasury licence	1. reg. 36 2. reg. 36	
Breach of reporting obligations	1. Failure to inform the Treasury about knowledge or reasonable cause to suspect that a person is a designated person or has committed an offence under Part 3 of the Regulations or regulation 36 (finance: licensing offences). 2. Failure to provide the Treasury with information on which the knowledge or suspicion is based or information by which the person can be identified.	1. reg. 39 2. reg. 39 3. reg. 39	Liable on summary conviction - • to custody for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

	3. Failure to provide the Treasury with information about any funds or economic resources it holds for a designated person at the time when it first had knowledge or suspicion.		
Failure to comply with requests for information	1. Failure to provide information in the time and manner requested under reg. 41 2. Knowingly and recklessly providing false information in respect of information requested under reg. 41 3. Evasion of requests made under reg. 41or reg. 42. 4. Obstruction of Treasury requests for information made under reg. 41 or reg. 42.	1. reg. 43 2. reg. 43 3. reg. 43 4. reg. 43	

ANNEX B

Table of trade sanctions offences

Type of Sanctions offences	**Specific offence**	**Relevant prohibition or requirement**	**Maximum penalty**
Breach of controls on exporting goods	Exporting military goods	Reg. 21. Offence contained within Customs and Excise Management Act 1986 s 69	Liable on summary conviction To a penalty of £5,000 or of three times the value of the goods whichever is the greater, or to custody for a term not exceeding 6 months, or to both. Liable on conviction to indictment To a penalty of any amount, or to custody for a term not exceeding 10 years (this is a modification to the 7 year maximum set out in the Customs and Excise Management Act 1986
Breach of controls on military goods and technology	1. Supplying or delivering military goods. 2. Making military goods and technology available. 3. Transferring military technology. 4. Providing technical assistance relating to military goods and technology. 5. Providing financial services or funds relating to military goods and military technology. 6. Providing brokering services relating to military goods and technology.	1. Reg.22 2. Reg.23 3. Reg.24 4. Reg.25 5. Reg.26 6. Reg.27	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both). Liable on conviction to indictment To custody for a term not exceeding 10 years or a fine (or both).
Enabling or facilitating the conduct of armed hostilities	Enabling or facilitating the conduct of armed hostilities	Reg.28	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both)

			Liable on conviction on indictment To custody for a term not exceeding 10 years or a fine (or both).
Circumvention etc. of prohibitions	Intentionally participate in activities knowing that the object or effect of them is, whether directly or indirectly to circumvent any of the prohibitions in regs. 21-28 (Trade) or to enable or facilitate the contravention of any such prohibition.	Reg. 29	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both). Liable on conviction on indictment To custody for a term not exceeding 10 years or a fine (or both).
Licensing Offences	a. Knowingly or recklessly: i. Providing information that is false in a material respect, or ii. Providing or producing a document that is not what it purports to be, for the purpose of obtaining a trade licence. b. Purporting to act under the authority of a trade licence but failing to comply with any condition contained in the licence.	Reg. 37	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both). Liable on conviction on indictment To custody for a term not exceeding 10 years or a fine (or both).
Information Offences	1. Failing to comply with record keeping requirements in reg. 45.(2) –(4). 2. (a) Intentionally obstructing an official in the performance of any of the official's functions	1. Reg. 45 2. Reg. 46	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both). Liable on conviction on indictment

	(b) Failing to produce a register, record or document when reasonably required to do so by an official.		To custody for a term not exceeding 10 years or a fine (or both).
Breach of confidential information provision	Disclosure of information specified by the UK Secretary of State as confidential where knowledge or reasonable cause to suspect that the information is to be treated as confidential.	Reg 9	Liable on summary conviction To custody to a term not exceeding 12 months or a fine (or both). Liable on conviction on indictment To custody for a term not exceeding 10 years or a fine (or both).