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OFSI's 2021 – 2022 Annual Review: Key UK Sanctions Highlights

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On 10 November 2022, the UK's Office of Financial Sanctions Implementation (OFSI) published its 2021 – 2022 Annual Review. In this alert, we've summarised its main takeaways.

The publication of the Annual Review comes at a time when there has been a significant shift in sanctions policy in the UK, largely driven by the response of the UK and its allies to the Russian invasion of Ukraine. The report indicates the material increase in workload by OFSI in dealing with the implementation of Russian-related sanctions and the necessary expansion of its capabilities. What is also clear is that the Ukraine situation has provided the UK government and OFSI with the impetus to implement an expanded sanctions framework in the UK. In addition to introducing expanded enforcement powers, OFSI is in the process of adopting a more visible and proactive enforcement approach, noting that the impact of Russian sanctions 'will result in a permanent and profound transformation to the way it operates'.

Sanctions against Russia

OFSI's Annual Review highlights how the financial sanctions imposed against Russia following its invasion of Ukraine have impacted OFSI's activities.

Key statistics in OFSI's enforcement strategy against Russia for 2021 – 2022 include:

- A total of £18.39 billion in Russian assets were reported as frozen to OFSI through 20 October 2022.
- Since the invasion, OFSI has received 236 sanctions breach reports.
- OFSI received 642 licence applications under the Russia regime.
- OFSI issued 33 general licences – 31 solely in respect of Russia and two for mixed regimes including Russia.
- OFSI signed more than 75 engagements with 50+ countries to ensure multilateral implementation of the sanctions system, including one cooperation agreement with the Office of Foreign Assets Control (the US sanctions authority).
- OFSI issued two monetary penalties – both to fintech firms – for making funds available to the Russia National Commercial Bank.
- There were 1,271 Russia regime-designated persons added to the consolidated list from 22 February to 24 August 2022.

In practical terms, the extensive demands placed on OFSI as a result of Russia-related sanctions have led to a significant expansion of its workforce, with OFSI expecting to more than double its employee count by the end of 2022. Whilst for the time being this is to manage Russia-related workflows, it means that OFSI is well-placed to extend its enforcement activities.

Licensing

The Annual Review also highlights the development of OFSI's licensing approach. OFSI now has the power to issue general licences that allow multiple parties to undertake specified activities without applicants needing to submit a specific licence. In 2021 – 2022, OFSI issued 17 general licences (in addition to 33 general licences issued in respect of the Russia regime), in comparison to only one for the previous year. The use of general licences provides benefits to OFSI, allowing it to avoid dealing with multiple licence applications whilst providing parties with some clear parameters as to permissible activities sooner than would be the case if individual applications were to be made. We can expect OFSI to continue using this power more widely going forward. OFSI indicates that in developing its approach to general licences, it is seeking to align with key international partners, which would be a welcomed development.

Regarding specific or individual licensing, OFSI reports that it is continuing to develop more streamlined procedures for assessing licence applications and making licence decisions, having acknowledged that the process can be slow at times. OFSI will continue to prioritise applications for humanitarian assistance licences, situations where there is a threat to human life, and/or issues of personal basic needs or issues deemed to be of strategic, economic or administrative importance.

Enforcement

A main theme reported by OFSI is the strengthening of its enforcement powers. This has been predominantly achieved through the Economic Crime (Transparency and Enforcement) Act 2022, which came into force on 15 June 2022, with key changes including:

- Enacting a strict civil liability test for imposing monetary penalties for financial sanctions breaches.
- Creating a new legal power to publicise details of financial sanctions breaches even where no monetary penalty is imposed.
- Enhancing powers to share information between government organisations.

During the reporting period, OFSI considered 147 reports of suspected financial sanctions breaches submitted by the public, with the number of reported breaches significantly increasing since the Ukraine invasion. It also notes that it is receiving an increasing number of referrals of suspected breaches from international partners, highlighting the expansion of international cooperation in sanctions enforcement. Indeed, a strong emphasis in the Annual Review is the extension of OFSI's activities with its international partners, a trend which we can expect to continue.

Looking ahead

OFSI has recognised that the Russian sanctions regime is likely to continue dominating its work over the coming year and remains the most extensive regime currently in place. Whilst OFSI's focus of the past six months has been responding to the implementation of the extensive Russian sanctions regime, the increase in OFSI's workforce and powers will enable it to take an active approach to enforcing sanctions more generally. OFSI references it as an 'evolving enforcement strategy', noting that it will expand its intelligence function by developing a targeting capability, as well as implementing 'a new, intelligence-led, proactive compliance and enforcement approach'.

The introduction of the Russia regime has been a testing issue for many. Interestingly, OFSI acknowledges the difficulties faced by companies, stating that '[w]e recognise the significant challenge that the Russian sanctions represent for those implementing them in the private and voluntary sectors and pay tribute to their commitment'. However, whilst the Annual Review highlights the necessary expansion undertaken by OFSI and its improved licensing capability, it is silent on the scope of practical guidance provided to companies.

In contrast to the European Union, there has been limited guidance issued by OFSI on the implementation of and compliance with Russian sanctions. However, this may change in the coming year, as OFSI stated in the Annual Review that one of its objectives is 'to ensure that regulation is clear, fair, [and] effective and allows business to operate as smoothly as possible'.

If you have any questions regarding OFSI or sanctions in general, please reach out to any of the Cooley contacts below.

Cooley trainee solicitor Shehzad Akram also contributed to this alert.

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