

October 13, 2022

On 27 September 2022, the Office of Financial Sanctions Implementation (OFSI) announced that it had [imposed a £30,000 penalty against a UK registered company](#) for contravention of the [Ukraine \(European Union Financial Sanctions\) \(No.2\) Regulations 2014](#) and the [Council Regulation \(EU\) No 269/2014 \(Ukraine Misappropriation and Human Rights\)](#), as internalised by UK law. We've summarised below the details of OFSI's investigation and its ramifications, including how the investigation is illustrative of the broad scope of financial sanctions and OFSI's enforcement policy.

Facts of OFSI's investigation

The Hong Kong International Wine & Spirit Competition (HKIWSC) – an English incorporated company – organises an annual wine and spirits competition. Wine companies showcasing their products must pay a fee to participate, and the winners of each year's competition receive year-round marketing and promotion of their wine at trade fairs.

One of the competition's participants from 2017 to 2020 was the State Unitary Enterprise of the Republic of Crimea Production-Agrarian Union (Massandra), a designated entity under UK sanctions. As a result, all UK persons, entities and persons within the UK have been prohibited from dealing with, and making funds and economic resources available to, Massandra since its designation. However, during that time frame, Massandra sent the HKIWSC 78 wine bottles and paid fees totalling up to £3,919. In exchange, the HKIWSC publicised Massandra's products.

On 7 December 2020, a third party submitted a suspected breach report to OFSI detailing the dealings between the HKIWSC and Massandra. After investigating this report and obtaining further information from the HKIWSC by exercising its information powers, OFSI found five potential breaches between 2017 to 2020. Four breaches were related to the receipt of funds and wine bottles – tangible economic resources – sent by Massandra to the HKIWSC. A further breach was related to publicity the HKIWSC made available to Massandra in connection with its participation in the annual competition, as OFSI determined that 'the publicity HKIWSC made available to Massandra following entry to its competitions was an intangible economic resource. This is because the publicity would be exchanged or used by Massandra in exchange for funds based on the reasonable inference it was for the purpose of increasing Massandra's wine sales'.

Insights into OFSI enforcement

This case serves as a timely reminder of the scope of financial sanctions regulations and provides valuable insight into OFSI's enforcement process. Specifically:

- All UK companies should ensure they comply with applicable UK financial sanctions, irrespective of where their activities take place.
- When considering the application of the restriction of making available 'economic resources' to a sanctioned person, entity or body, companies need to be aware that 'economic resources' are interpreted to include tangible and intangible economic resources.
- OFSI has illustrated that the provision of publicity is an intangible economic resource, so companies need to be on notice to conduct a broad review of their activities when assessing their sanctions compliance.
- The financial value of the intangible asset does not need to be determined by OFSI before it imposes a penalty.

- This case concerned the wine industry, which underlines how financial sanctions apply across all sectors.
- Voluntary reporting of a breach should not be underestimated as a crucial mitigating factor. Indeed, in its announcement, OFSI concluded that there were no mitigating circumstances, as the HKIWSC had not carried out a voluntary disclosure.

Importance of risk mitigation

In its public announcement, OFSI also highlighted that companies can reduce the risk of breaching financial sanctions regulations by:

- Improving their awareness of financial sanctions.
- Assessing their business to identify if they do business with any sanctioned companies or individuals.
- Considering their global exposure to high-risk jurisdictions and taking steps to mitigate against dealing with designated persons and entities.

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

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