

UK financial sanctions: Extended reporting requirements

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On 8 August 2017, the European Union Financial Sanctions (Amendment of Information Provisions) Regulations 2017 (the "**Regulations**") will come into force. The Regulations "*expand the scope of the reporting requirements set out in existing UK financial sanctions statutory instruments to certain businesses and professions*".

The UK's financial sanctions/asset-freeze regimes require a "*relevant institution*" to report as soon as practicable to the Office of Financial Sanctions Implementation ("**OFSI**"), part of HM Treasury, if it knows, or has reasonable cause to suspect that: (i) a person has committed an offence under the relevant financial sanctions/asset freeze regulations; or (ii) is a designated person. The information that must be provided includes:

1. the information or other matter on which the knowledge or suspicion is based;
2. any information it holds about the relevant person by which the person can be identified; and
3. (where relevant) the nature and amount of funds or economic resources held by the institution for the relevant person.

Failure to report is a criminal offence.

Which businesses are affected?

Currently, "relevant institutions" include financial institutions which are authorised under Part 4A of the UK Financial Services and Markets Act 2000, certain EEA credit institutions exercising passporting rights into the UK and currency exchange businesses.

The Regulations extend the scope of the reporting requirement to a "relevant business or profession". This includes independent legal professionals, trust or company service providers, estate agents, dealers in precious metals and stones, casinos, auditors, external accountants and tax advisers operating in the United Kingdom.

The Regulations apply within the UK and to any UK national or body incorporated in the UK.

Implications

Businesses which do not already fall within the narrower definition of "relevant institution" need to identify whether they will be a "relevant business or profession" under the Regulations. If they are, they will need to ensure that they are familiar with their reporting obligations and have identified all areas of their business that may be affected. Policies and procedures will be required to ensure that relevant information is reported to OFSI as required under the Regulations.

EU and UK financial sanctions do contain some exemptions from reporting requirements, including an exemption from reporting for information subject to legal professional privilege. This is likely to have some impact on how the new measures will affect "relevant businesses or professions", but the exemptions will need to be reviewed on a case-by-case basis.

Notably, the Regulations only extend the scope of the reporting obligations in relation to UK financial sanctions; they do not impose reporting obligations in relation to suspected violations of trade sanctions or export controls.

As they relate to domestic enforcement of EU financial sanctions, the Regulations have been passed through the UK Parliament's negative resolution procedure (under which law can be made without parliamentary debate if there is no objection made by the Commons or the Lords).

This means that they have not been subject to parliamentary debate and no formal impact assessment or consultation has been performed. However, OFSI is already engaging with sectors that are currently and due to be impacted so that they fully understand the implications of the Regulations and can provide input on practical guidance and reporting mechanisms.

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