Solicitors Regulation Authority

News release

The importance of complying with Russian financial sanctions

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In the wake of the UK Government imposing sanctions on Russia, we want to remind you and your firm of the importance of your role in ensuring all measures and restrictions are complied with. We have also set out the actions we are taking to both assess and support compliance.

Areas covered below include:

- financial sanctions
- anti-money laundering
- strategic litigation against public participation (SLAPP)
- continuing to act for clients

Financial sanctions

Breaching the financial sanctions requirements can result in criminal prosecution or a fine by OFSI. However, our Code of Conduct also requires all firms we regulate to keep up to date with and follow the law and regulation relating to their work, and we would take disciplinary action should we see evidence of serious non-compliance.

Your firm must have appropriate policies in place to ensure you comply with sanctions legislation, including carrying out regular and appropriate checks of sanctions lists. We expect you to take your responsibilities under the regime to safeguard the UK and protect the reputation of the legal services industry seriously.

The financial sanctions regime prevents law firms from doing business or acting for listed individuals, entities or ships (without a licence). Firms should check the financial sanctions lists before offering services or undertaking transactions for clients. If an individual is on the sanctions list and subject to an asset freeze, firms may not deal with those funds or make resources available to that person.

We are commencing a process of spot checks on firms to assess compliance with the financial sanctions regime.

Making reports

Firms must also make a report to the Office of Financial Sanctions Implementation (OFSI) if they suspect a customer of their firm is a designated person under the financial sanctions regime. You have

responsibilities under this regime to safeguard the UK and protect the reputation of the legal services industry. Breaching the financial sanctions requirements can result in criminal prosecution or a fine.

The lists and information about the UK sanctions regimes in force are constantly updated and published online [https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act] . The Financial Conduct Authority (FCA) has also published helpful guidance on the sanctions regime. [https://www.fca.org.uk/news/statements/new-financial-sanctions-measures-relation-russia]

There are some exemptions for which firms can seek a licence from the Office of Financial Sanctions Implementation (OFSI). These include applying for a licence in order to receive reasonable fees for the provision of legal advice. OFSI will judge whether the fees are reasonable. Guidance on these [https://www.gov.uk/government/publications/financial-sanctions-faqs] is available online.

Checking thoroughly

The situation in Ukraine is very fast moving and this has meant that there have been frequent additions to the sanctions lists. The sanctions lists are frequently updated, and we are experiencing an unusual and fast pace of change at the moment.

If firms have undertaken sanctions checks as part of customer due diligence when taking on the client and there has then been a period of time before a transaction takes place, we would remind firms that it's helpful to re-check the sanctions list ahead of the transaction completing because individuals may have been added to the list in the interim.

If your firm is using an electronic verification system for customer due diligence and sanctions checks, check they are refreshing sanctions lists with sufficient frequency.

As this is a fast-moving situation, you can sign up to receive alerts on the latest sanctions changes on the OFSI website [https://public.govdelivery.com/accounts/UKHMTREAS/subscriber/new] .

Other regulatory requirements: anti-money laundering

You must take a risk-based approach to preventing money laundering, meaning you must understand the risks of how your business may be used to launder money and take steps to appropriately mitigate those risks.

We proactively visit firms to check whether they are complying with the money laundering regulations. We investigate non-compliance with the

money laundering regulations based on our proactive work, reports to us, or intelligence sharing with other agencies and regulators.

Some of the key areas where you need to make sure your firm is complying include:

- risk assessing your firm, relevant clients and matters
- putting in place policies, procedures and controls to prevent your firm from being used to launder money
- identifying and verifying identities of your clients and any beneficial owners of your clients
- identifying source of funds and wealth where relevant
- training your staff in the regulations, your policies and how to recognise red flags
- having a money laundering reporting officer who can alert the National Crime Agency (NCA) where they suspect they have encountered the proceeds of crime.

We have a range of resources [https://guidance.sra.org.uk/solicitors/resources-archived/money-laundering/] and webinars [https://www.youtube.com/user/SRAsolicitors/videos] to help you understand your AML obligations.

If we identify knowledge or suspicion of money laundering itself taking place, we liaise with law enforcement and the National Crime Agency to open an investigation and take action once any criminal investigation has been concluded.

Misuse of litigation

Concerns have been raised about Strategic litigation against public participation (SLAPP), the term used to describe misuse of the legal system to discourage public criticism and reporting or action to address serious concerns (such as corruption/money laundering). It can include preliminary steps as well as actual litigation, for example letters from firms suggesting that litigation may follow.

The Rule of Law and our legal system provides that there is a right to legal advice and representation for all. However, you must ensure that proceedings are pursued properly and that your duties to your client don’t override your public interest obligations and duties to the court. That means for example you must not bring cases that are not properly arguable; bring excessive or oppressive proceedings; or mislead or take advantage of others.

We have published [https://guidance.sra.org.uk/solicitors/guidance/conduct-disputes/] new guidance on how to balance your duties when conducting litigation.

Continuing to act

Even if a client is not on the sanction list, many firms are reviewing their client lists and considering who they feel comfortable acting for.

This is highly unlikely to be a regulatory matter. The general position is that firms can choose who they act for, and can choose **not** to act for any reason (unless unlawful, for example under equalities legislation). The question of terminating a current retainer is one for the common law, and turns on whether there is a 'good reason' for the termination.

The current situation with the conflict in Ukraine is clearly novel, and whether there is a 'good reason' for terminating a client retainer in response will be a matter for the courts to decide, on the individual facts. Either way, from a regulatory point of view, our concern is to ensure that the firm has carefully considered the legal position and also understood and mitigated any risks to the client.

If your firm is any doubt about what approach to take, please contact our Ethics Guidance helpline [https://guidance.sra.org.uk/contactus] for advice.

Taking action

We take compliance with the money laundering regulations, sanctions regime and duties in litigation very seriously. We will continue to follow up on where we hear about allegations of wrongdoing, and take action where we find evidence of misconduct.