



Key takeaways: Sanctions Enforcement - risks, penalties and prosecutions: an international perspective

19 April 2023



"The sanctions landscape has undergone seismic shifts since Russia's invasion of Ukraine. I hope this event has helped detail and explain those shifts and give some insight on how to anticipate and manage the aftershock."

"When dealing with a sanctions breach I would emphasise the importance of a carefully thought-out, joined up global strategy that reflects the issues and pitfalls that may be present in each jurisdiction that is involved."

Aziz Rahman, Senior Partner, Rahman Ravelli

"In practice, the primary enforcers of the sanctions regime are private sector stakeholders and their regulators, including banks, lawyers and accountants. The political and media climate has created such a risk-averse culture that over-enforcement has become common. This is resulting in people being denied access to crucial professional services: access to lawyers to challenge designation decisions or apply for OFSI licences; and access to banking services to process transactions that the UK Government has licensed. When we start to get more judicial decisions on designation challenges and NCA enforcement action, how will these decisions affect this? Will they re-humanise the "designated person" and expose the flimsy evidential basis on which the UK Government appears to have sanctioned some people? Will they clarify the real scope of the sanctions regime, making it clear what private sector stakeholders are in fact permitted to do without breaking the law?"

Jago Russell, Partner, Boutique Law

"The U.S. sanctions program has become a more robust element of U.S. foreign policy since Russia's invasion of Ukraine in February, 2022. There have been multiple rounds of new sanctions against Russian entities and individuals, and perhaps more significantly, Department of Justice officials have announced a dedicated effort to pursue criminal enforcement actions relating to violations of U.S. sanctions. Deputy Attorney General Lisa Monaco has said repeatedly that sanctions enforcement is "the new FCPA," committing to pursue the robust enforcement efforts that the Department has applied to the Foreign Corrupt Practices Act in recent years. Financial institutions and companies are responding to the sanctions by dedicating more resources and attention to compliance. Whether we will see a significant number of criminal cases is yet to be seen, but in my practice, we are seeing clients devoting resources to the compliance efforts that the Department is trying to promote."

Amy Jeffress, Partner, Arnold Porter



RAHMAN RAVELLI



"Third party sanctions: Whilst the UK unlike the US, does not have a secondary sanctions regime, the designation of third parties characterised as enablers is achieving equivalent deterrence. The designation of MTS Bank for example appears to have been influential in the decision by the Dubai Central Bank to revoke MTS's banking licence. The approach is likely to be extended to other targets;

Prosecution: The scope for the imposition of monetary penalties is now so great that it is likely that only the most egregious sanctions breached will be enforced by criminal prosecution. Instead, the focus of NCA is likely to be on instances of alleged circumvention. As a result of enhanced cross-border information sharing and regulatory reporting obligations, it is likely that lawyers, accountants and the financial services sector will be high on NCA's hit list;

Trade Sanctions: Trade sanctions, which now include professional services as well as physical goods, will remain the most active area of sanctions enforcement. Enforcement investigations are likely to prioritise action on the transshipment of goods of goods in third party states and diversion to embargoed jurisdictions".

Peter Caldwell, Barrister, Doughty Street Chambers

"The G7 Foreign Ministers confirmed in their last meeting of 18 April 2023 that sanctions evasion via third countries and in the supply chains shall be tackled. There are in particular special calls on Kyrgyzstan, Kazakhstan, Armenia, Azerbaijan, Turkey and the UAE to prevent Russia from evading sanctions. Further the G7 also urge Switzerland to close alleged Russian sanctions loopholes.

The EU Aims to Boost Russia Sanctions Enforcement with a new project: The European Union said it was planning to launch a project with nine member states to identify gaps in the sanctions regime against Russia and to improve coordination between national authorities when enforcing penalties. The partnership between the European Commission and the national governments, which are currently responsible for the implementation of sanctions, could be a precursor to a new EU body to coordinate sanctions oversight - the ultimate goal is to implement an agency similar to OFAC".

Angelika Hellweger, Legal Director, Rahman Ravelli

