

The UK's new Office of Trade Sanctions Implementation begins operations

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On 10 October 2024, the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 came into effect in the UK. The regulations provide the newly created Office for Trade Sanctions Implementation with civil powers to enforce against trade sanctions violations.

Scope and powers

The Office for Trade Sanctions Implementation's (OTSI) mandate concerns the civil enforcement of sanctions relating to:

- the provision of stand-alone services, in particular professional and business services;
- moving, making available, or acquiring restricted goods and technology outside the UK; and
- the provision of certain services ancillary to the movement, making available, or acquisition of goods and technology. This includes technical services and ancillary professional services.

OTSI is an office within the UK Department for Business and Trade and has enforcement powers similar to those available to the Office of Financial Sanctions Implementation (OFSI), which is responsible for the enforcement of financial sanctions. The Export Control Joint Unit maintains its remit for export licenses, while His Majesty's Revenue and Customs (HMRC) continues to be responsible for criminal penalties in respect of trade sanctions.

Apart from investigating and enforcing against trade sanctions violations, OTSI is also able to act in respect of compliance failures where entities are unresponsive to information requests or in breach of reporting requirements. The key powers it has are discussed below:

- **Monetary penalties:** Provided the value of a sanctions violation can be estimated, OTSI can impose a fine, the maximum value of which is the greater of £1 million or 50% of the estimated value of the breach. If no estimate is possible, the fine is capped at £1 million. Note that in line with [section 54 of the Economic Crime \(Transparency and Enforcement\) Act 2022](#), a strict liability regime applies for sanctions-related civil monetary penalties: The offending person's intentions or knowledge are not relevant to whether OTSI can pursue an enforcement action. The monetary penalties regime mirrors the powers available to OFSI.
- **Information gathering:** OTSI is empowered to request a person to provide information for the purposes of (i) exercising its functions under [the Trade, Aircraft and Shipping Sanctions \(Civil Enforcement\) Regulations](#) (TASS Regulations), (ii) monitoring compliance with sanctions regulations and (iii) investigating suspected breaches or compliance failure. OTSI may also request documents and is permitted make copies and request an explanation of the documents provided. Regulation 23 of the TASS Regulations authorises OTSI to take enforcement actions even where relevant offences take place outside the UK. OTSI may therefore seek out documents and materials beyond those relating to UK companies and assets. Failure to comply with an information request could lead to criminal penalties.
- **Reporting obligations:** The TASS Regulations require certain financial services firms to [report to OTSI](#) if they have reasonable cause to suspect a person has breached or failed to comply with sanctions obligations. A failure to make the necessary report can lead to criminal penalties.

OTSI retains flexibility to moderate its response to a breach of sanctions laws or reporting requirements. The UK government's [guidance](#) highlights the mitigating factors that OTSI can consider in its evaluation of the circumstances. Timely disclosure of suspected breaches, compliance with recordkeeping rules and compliance systems that are proportionate to the business's resources and sanctions exposure may lead OTSI to reduce the penalty imposed. By contrast, previous breaches or obstructive behaviour, amongst other things, are seen as aggravating factors and may trigger a more severe response.

Implications for companies

The TASS Regulations are a clear signal that the UK government intends to further strengthen its ability to monitor, investigate and pursue enforcement actions against entities failing to comply with sanctions law. The TASS Regulations come into force amid recent high-profile enforcement actions, including [HMRC's £2.3 million fines](#) against seven exporters and the Financial Conduct Authority's fine against a UK bank for failures to conduct adequate financial sanctions screening.

Given the strict liability regime, companies will need to evaluate whether their internal compliance procedures are fit for purpose and adapt their procedures in line with OTSI's guidance. Financial institutions should also consider whether they are currently able to comply with their reporting requirements.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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