

CLIENT ALERT

UK Government to launch the Office of Trade Sanctions Implementation in October 2024

September 18, 2024

AUTHORS

Peter Burrell | Simon Osborn-King | Rita D. Mitchell | Yannis Yuen

The UK Government has now published the regulatory framework providing the scope and powers of the Office for Trade Sanctions Implementation (“**OTSI**”), and announced that it plans to launch the new authority in October 2024.

[The Trade, Aircraft and Shipping Sanctions \(Civil Enforcement\) Regulations 2024](#) (“**TASSR**”) will take effect from 10 October 2024, giving OTSI responsibility for the implementation and enforcement of certain trade sanctions in the UK, and overseas trade with a UK nexus.

Scope of trade sanctions enforcement powers

OTSI’s enforcement powers will apply to:

- all UK persons including businesses wherever they are in the world; and
- any person including businesses in the UK or the UK territorial sea, including branches of UK companies operating overseas.

OTSI will be responsible for enforcement of sanctions prohibiting:

- the provision or procuring of sanctioned services (such as professional and business services and legal advisory services);
- the import, export, transfer, movement, making available or acquisition of sanctioned goods and technology; and

UK Government to launch the Office of Trade Sanctions Implementation in October 2024

- the provision of ancillary services relating to the import, export, transfer, movement, making available or acquisition of sanctioned goods and technology.

OTSI shall not have authority to enforce trade sanctions which relate to strategic goods and technology (including military and dual-use goods), which remain under HMRC's remit nor shall it be responsible for enforcing sanctions in respect of:

1. maritime transportation of certain oil and oil products under the Russia (Sanctions) (EU Exit) Regulations 2019;
2. prevention of provision of internet services to or for the benefit of designated persons under the Russia Regulations; or
3. prevention of provision of internet services to or for the benefit of designated persons under the Belarus (Sanctions) (EU Exit) Regulations 2019.

Power to impose civil monetary penalties

Until now, violations of UK trade sanctions could only be subject to criminal enforcement (via prosecution or issuance of compound penalties) by HMRC. Now, OTSI will be able to impose civil monetary penalties on UK persons or any persons with respect to conduct in the UK, on a strict liability basis, with the maximum being £1m for each breach or 50% of the estimated value of the breach, whichever is higher.

Monetary penalties may also be imposed on a director, manager, secretary or other similar officer of a corporate body, and on the corporate body itself, if the individual is responsible for a sanctions breach due to consent, connivance or neglect.

OTSI may also publish details of the cases where they impose a civil monetary penalty and may also choose to publish details of cases even where no monetary penalty is imposed.

Reporting obligations

Under TASSR, regulated financial institutions and certain other financial services providers, and legal (subject to a legal professional privilege exception) and notarial services providers are obligated to report to the Secretary of State, if they know, or have reasonable cause to suspect, that a person has breached a trade sanctions prohibition or failed to comply with an trade sanctions obligation, and the information or other matter on which the knowledge or cause for suspicion is based, came to the person in the course of carrying on their business.

Similar reporting obligations also apply to a separately defined group of persons, in relation to the breach of aircraft or shipping sanctions prohibitions or failure to comply with an aircraft or shipping sanctions obligation.

UK Government to launch the Office of Trade Sanctions Implementation in October 2024

Failure to comply with these reporting obligations is a criminal offence.

Expectations

OTSI's launch is another step by the UK government in its efforts to drive sanctions compliance and empower sanctions enforcement agencies. Time will tell how much enforcement activity there will be and whether OTSI will be more successful in pursuing trade sanctions violations than its sister agency, the Office of Financial Sanctions Implementation ("OFSI"), has been in the last eight years since its creation in enforcing financial sanctions breaches.

To some degree, OTSI's success will depend on the information it receives. To that end, it is reasonable to expect OTSI to utilise its information request powers, particularly against UK companies supplying goods and services abroad, and regulated financial institutions that support such companies. The ability to respond in a timely and accurate manner to such information requests, for instance in providing documents, such as copies of commercial invoices, contracts, licences, letters of credit and proof of insurance, sale contracts, will be of increasing import to those affected, especially given failure to do so may amount to a criminal offence.

It may well be the case that OTSI's information gathering powers result in referrals to HMRC to consider for the purposes of criminal enforcement of trade sanctions – an area in which HMRC has historically had limited success in securing convictions.

What is easier to predict is the impact of the additional layer of reporting obligations on regulated financial institutions and other financial services providers. Those businesses will need to ensure they have fully understood the scope of the TASSR and have in place the appropriate systems and controls to be able to identify, and subsequently report, the trade sanctions breaches falling within OTSI's remit, or alternatively be confident that their activities are registered as falling within the scope of any general licences issued by OFSI or the Department of Business and Trade.

UK Government to launch the Office of Trade Sanctions Implementation in October 2024

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Peter Burrell

44 20 3580 4702

pburrell@willkie.com

Simon Osborn-King

44 20 3580 4712

sosborn-king@willkie.com

Rita D. Mitchell

44 20 3580 4726

rmitchell@willkie.com

Yannis Yuen

44 20 3580 4855

yyuen@willkie.com

Copyright © 2024 Willkie Farr & Gallagher LLP.

This alert is provided by Willkie Farr & Gallagher LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This alert may be considered advertising under applicable state laws.

Willkie Farr & Gallagher LLP is an international law firm with offices in Brussels, Chicago, Dallas, Frankfurt, Houston, London, Los Angeles, Milan, Munich, New York, Palo Alto, Paris, Rome, San Francisco and Washington. The firm is headquartered at 787 Seventh Avenue, New York, NY 10019-6099. Our telephone number is (212) 728-8000 and our fax number is (212) 728-8111. Our website is located at www.willkie.com.

Willkie Farr & Gallagher (UK) LLP is a limited liability partnership formed under the laws of the State of Delaware, USA and is authorised and regulated by the Solicitors Regulation Authority with registration number 565650.