

UK Steps Up Enforcement Efforts with New Global Anti-Corruption Sanctions Regime (Part II of II)

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This is Part II of a two-part post. This Part discusses practical ramifications of the UK's new Global Anti-Corruption Sanctions Regulations. For Part I, discussing technical aspects of the regulations, click [here](#).

The new Global Anti-Corruption Sanctions Regime is a further step by the UK on its path to forge its own post-Brexit sanctions policy. It mirrors the approach taken by its international partners, the US and Canada, both of which already have systems in place that impose sanctions on people and entities based on allegations of corruption. For example, under the new rules, the UK sanctioned current Guatemalan official Felipe Alejos Lorenzana on the same day the US did. Furthermore, a large number of the individuals on the UK's list have already been sanctioned by the US.

The strong partnership between the US and UK in the field of sanctions is echoed in the US Secretary of State's commending of the UK's new regime, noting that it "reinforces the US-UK partnership in the fight against corruption and illicit finance" and enhances the ability "to cooperate and coordinate on comparable human rights and corruption sanctions programs." It remains to be seen whether the EU will swiftly follow the UK with its own corruption sanctions regime.

The introduction of corruption for the first time in a sanctions regime marks a significant change in the UK, and companies will need to be more alert when conducting due diligence of customers and third parties. Allegations of corruption have hitherto been a judgment call based on the interpretation of due diligence, so there was often no clear-cut answer whether business was permitted or not. To put it another way, it has primarily been a matter of risk appetite for companies – whether to engage with persons and entities linked to corruption allegations. Now, by linking corruption to the sanctions regime, a person on the list faces automatic and immediate consequences. Although the scope of the Regulations is limited to corruption defined as bribery or misappropriation of assets relating to foreign public officials, which is fairly narrow, it will be interesting to see whether the UK expands this scope in the future.

Because the Regulations allow for challenges to designations and require that they be reviewed regularly, any designations will need to be based on robust evidence and carefully considered by

the UK government, to avoid the risk that a successful appeal might undermine the designation process.

The Regulations enable the UK to target individuals around the world, unlike conventional geographic sanctions regimes, which are aimed at dealings with or within a designated country. Although the UK government has stated that the regime targets individuals, not countries, in practice the approach taken by the UK appears to be heavily influenced by its relations with other countries. It is notable that 14 of the 22 designated persons are of Russian nationality. The remaining designations appear to be of individuals from states where the UK has little political or economic interest. A number of the individuals designated are elected persons, including legislators and government officials. This shows that the UK is prepared to take an aggressive stance in relation to public corruption, by openly condemning elected officials.

In comparison with the UK's Global Human Rights Sanctions Regulations, which require "involved persons" to have been involved in activities "which, if carried out by or on behalf of a State within the territory of that State, would amount to a serious violation by that State" of an individual's human rights, the corruption rules have a wider reach. The requirement for an "involved person" is instead an involvement in "serious corruption" with no evidentiary connection required to a state (other than the bribery or misappropriation of property occurring in relation to foreign public officials).

Additionally, the UK looks willing to designate individuals based on allegations alone, rather than an actual conviction of serious corruption. The policy paper cited above states that, when considering designations, the UK will pay particular attention to cases where the relevant jurisdiction's law enforcement authorities have been unable or unwilling to hold involved persons to account. Further, in the [Foreign Secretary's report \(PDF: 54 KB\)](#) under s.2(4) SAMLA, he notes that that criteria for designation may no longer be met where there has been a successful prosecution in the relevant jurisdiction or an acquittal, presumably because there would no longer be a need for the UK to take punitive action.

The focus of the Regulations is on corruption occurring outside of the UK. Involvement in corruption falling within the UK's jurisdiction would normally be addressed through UK law enforcement measures. The government has noted, however, that there may be exceptional cases where the UK will consider designating persons where there may be UK jurisdiction but UK law enforcement is unable to pursue a case against those persons or their property, for example, because a person is outside the UK and a foreign government does not provide necessary cooperation.

Conclusion

Businesses should update their risk assessments in the area of sanctions and corruption. It will no longer be enough to rely on geography as the primary high-risk sanctions indicator. They will have to look not just at the location of their actions, but focus more closely on whether parties are designated. As part of sanctions and corruption due diligence, list-based checks covering the factors outlined in the Regulations should be conducted to ensure full compliance with anti-corruption and sanctions rules.

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This entry was posted in Bribery, Corruption: Foreign, Criminal Enforcement, Risk Management, Sanctions, UK Liability and Enforcement and tagged Elizabeth Robertson, Ryan D. Junck, Zahra Mashhood on May 20, 2021 [https://wp.nyu.edu/compliance_enforcement/2021/05/20/uk-steps-up-enforcement-efforts-with-new-global-anti-corruption-sanctions-regime-part-ii-of-ii/] by Jason Kelly.