

# UK Announces Creation of New Trade Sanctions Enforcement Agency and Introduces Further Sanctions Against Russia

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With Russia's invasion of Ukraine nearing the end of its second year, the United Kingdom has continued to introduce sanctions measures against Russia, with the latest round announced on 14 December 2023.<sup>1</sup>

In particular:

- Existing import restrictions were expanded to include certain Russian metals and ancillary services provided in relation to luxury goods, whilst existing restrictions on processing sterling payments were expanded to cover non-sterling payments. These prohibitions were published under the [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 4\) Regulations 2023](#) and came into force on 15 December 2023.
- The [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 5\) Regulations 2023](#), which was also published on 14 December 2023, introduced new import prohibitions relating to Russian diamonds, which came into force on 1 January 2024.

Additionally, on 11 December 2023, the UK government announced the creation of a new agency responsible for the civil enforcement of trade sanctions.

The UK's additional measures were announced just before the [EU adopted its 12th package of sanction against Russia on 18 December 2023](#).

Below, we outline the key new prohibitions and developments in the UK.

## A New Agency for Trade Sanctions Enforcement

On 11 December 2023, the UK government announced the [creation of a new Office of Trade Sanctions Implementation](#) (OTSI). The government's press release noted that OTSI would be responsible for the civil enforcement of trade sanctions, including those implemented against Russia. The government has made clear that OTSI will prioritise, in particular, identifying companies seeking to circumvent UK trade sanctions.

[OTSI's website](#) notes that the agency is currently being set up and will commence operations this year, once its new legal powers are in force. We expect that this will coincide with an increase in enforcement activity related to alleged non-compliance with trade restrictions connected to Russia, which is an increasing area of focus for UK agencies.

## Trade Restrictions

The new regulations expanded existing trade restrictions to include certain Russian metals and ancillary services provided in relation to luxury goods. Additional goods were also brought within scope of existing trade restrictions.<sup>2</sup> These restrictions came into force on 15 December 2023. The new regulations also introduced the long-awaited so-called Russian diamond ban, which was first announced by the UK government in May 2023 and came into force on 1 January 2024.

<sup>1</sup> This client alert is for informational purposes only and does not constitute legal advice. Complex assessments often have to be made as to which sanctions regime applies in any given instance, given the multinational touch points of many entities and individuals. In that regard, given the complex and dynamic nature of these sanctions regimes, there may be developments not captured in this summary. Moreover, while the summary was accurate when written, it may become inaccurate over time given developments. For all of these reasons, you should consult with a qualified attorney before making any judgments relating to sanctions, as there are potentially severe consequences of failing to adhere fully to sanctions restrictions.

<sup>2</sup> Amendments were made to Schedule 3B, 3C and 3E of the UK Regulations to expand the list of goods subject to existing trade restrictions. This included, for example, categories of vehicle and goods with potential military and industrial uses.

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Regulation 46IG prohibits the import of certain metals that are consigned from, or originate in, Russia. Metals are defined in Schedule 3BA of the Russia (Sanctions) (EU Exit) Regulations 2019 (the UK Regulations) and includes, among many others, copper, nickel, aluminum, lead, zinc and tin.

Regulation 46IH prohibits the direct or indirect acquisition of metals originating in, or located in Russia, whilst Regulation 46II prohibits persons from directly or indirectly supplying or delivering metals from a place in Russia to a third country (*i.e.*, a country that is not the UK, the Isle of Man or Russia).

In connection with the Russian metals prohibitions, the UK Department for Business and Trade (DBT) published a [general trade licence](#). The licence authorises the direct or indirect acquisition of a warrant on a global metal exchange by LME Clear Limited, the London Metal Exchange, global metal exchange members and clients of global metal exchange members, which would otherwise be prohibited by Regulation 46IH(1)(a) (*e.g.*, direct or indirect acquisition of metals that originate in Russia), provided that such persons:

- do not cancel or withdraw such a warrant from a global metal exchange in order to take physical delivery of metal for their own account, and
- do not change the location of the metal to which the warrant relates.

The licence came into force on 14 December 2023 and is of indefinite duration.

Regulations 46BA, 46BB and 46BC extend existing import restrictions on luxury goods by also prohibiting the direct or indirect provision of technical assistance, financial services and funds, and brokering services in respect of luxury goods. This broadly mirrors the ban on such services that were already in place in relation to other goods.

Luxury goods are defined in Schedule 3A of the UK Regulations and include, among many other items, caviar, truffles, Champagne and perfumes.

Regulation 46Z16K introduces a prohibition on the import of diamonds and diamond jewellery that are consigned from, or that originate in, Russia. Regulation 46Z16L also adds a prohibition on the direct or indirect acquisition of diamonds or diamond jewellery originating in, or located in Russia, whilst Regulation 46Z16M prohibits persons from directly or indirectly supplying or delivering diamonds or diamond jewellery from a place in Russia to a third country.

Similar prohibitions on the provision of technical assistance, financial services and funds, and brokering services related to diamonds and diamond jewellery, have also been introduced.<sup>3</sup>

## Payment Processing Restrictions

The new regulations also expand existing payment processing restrictions to include non-sterling payments.

Since 1 March 2022, Regulation 17A has prohibited UK credit or financial institutions from processing sterling payments to, from or via designated persons (and any credit or financial institutions owned or controlled by designated persons). The new regulations have expanded this prohibition to also include the processing of non-sterling payments.<sup>4</sup>

On 15 December 2023, the UK designated 26 banks for the purposes of the correspondent banking prohibitions in Regulation 17A.<sup>5</sup> Previously, only Sberbank had been designated for the purposes of these prohibitions. A [general licence](#) was issued in relation to these new correspondent banking designations that allowed UK credit or financial institutions to process certain payments connected to the newly designated banks by 23:59 on 22 December 2023.

## Reporting Obligations

The new regulations have also created additional reporting obligations for relevant firms and designated persons, which came into force on 26 December 2023.

Regulation 70(1ZA) requires a relevant firm to notify HM Treasury as soon as practicable where it knows, or has reasonable cause to suspect, that it holds funds or economic resources for a “prohibited person,”<sup>6</sup> and the information that the knowledge or suspicion is based on came to the firm in the course of carrying out its business.

Regulation 70(1ZB) requires relevant firms to report, by no later than 31 October of each calendar year, the nature and amount of funds or economic resources held by that firm for a prohibited person.

<sup>3</sup> See Regulations 46Z16N, 46Z16O and 46Z16P.

<sup>4</sup> See Regulation 3 of the Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023.

<sup>5</sup> See [HM Treasury's notice](#). All of the banks designated for the purposes of these prohibitions were already subject to asset freezes and trust services prohibitions.

<sup>6</sup> A prohibited person is defined as a person to whom “financial services must not be provided by virtue of regulation 18A(1).” Regulation 18A imposes restrictions on providing financial services related to foreign exchange and asset management to the (i) Central Bank of the Russian Federation, (ii) National Wealth Fund of the Russian Federation, (iii) Ministry of Finance of the Russian Federation, (iv) a person owned or controlled directly or indirectly by a person listed in (i) to (iii), or (v) a person acting on behalf or at the direction of a person listed in (i) to (iii).

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In relation to reporting obligations for designated persons, Regulation 70A(1) requires a UK designated person (*i.e.*, a designated person who is also a UK person)<sup>7</sup> to disclose to HM Treasury:

- the nature and value of funds or economic resources that person owns, holds or controls in any jurisdiction, and
- the location of the funds and economic resources.

If the person was designated prior to this requirement coming into force, they must provide this information to the Treasury “by the end of the period of 10 weeks starting on the relevant day” (*i.e.*, 26 December 2023, the day the regulation came into force).

Regulation 70A(2) requires non-UK designated persons (*i.e.*, a designated person who is not a UK person) to inform the Treasury of:

- the nature and value of any funds or economic resources that person owns, holds or controls in the UK, and
- the location of those funds and economic resources.

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<sup>7</sup> A UK national or a body incorporated or constituted under the law of any part of the UK, wherever they are in the world.

The same time periods for compliance outlined above for UK designated persons apply to non-UK designated persons.

## Oil Price Cap

On 20 December 2023, HM Treasury’s Office of Financial Sanctions Implementation (OFSI) published [updated guidance related to the oil price cap](#).

In particular, the guidance provides clarity on upcoming changes to the attestation model. From 19 February 2024, attestation forms must be provided on a per-voyage basis,<sup>8</sup> whilst itemised ancillary costs (such as packaging costs, fees for customs clearance, duty and taxes, etc.) must be recorded by Tier 1 entities and provided to Tier 2 and Tier 3A contractual counterparties upon request.<sup>9</sup>

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<sup>8</sup> The guidance defines a voyage as the period between the oil and/or oil products being loaded onto a ship and when it is discharged. As such, if a ship transfers the oil/oil product to another ship before reaching its destination (a process known as a ship-to-ship transfer), this would constitute two separate voyages and the Tier 1 or Tier 2 entities involved in the onward shipment would need to produce a new attestation.

<sup>9</sup> As per the guidance, Tier 1 comprises persons who regularly have direct access to the price paid for a cargo in their ordinary course of business (*i.e.*, including, but not limited to, exporters and importers, commodities brokers and commodities traders). Tier 2 comprises persons who do not themselves have direct access to oil price information (*i.e.*, including, but not limited to, financial institutions providing transaction-based trade finance, customs brokers and ship agents). Tier 3 comprises persons who have no direct access to price information (*i.e.*, including, but not limited to, insurance brokers, cargo insurers and ship owners.) From 29 February 2024, Tier 3 will be split out into Tier 3A and Tier 3B (with the changes to the attestation model applying to Tier 3A, and not Tier 3B, entities). Tier 3A comprises protection and indemnity clubs, hull and machinery insurers, cargo insurers, insurance brokers, ship owners and ship management companies. Tier 3B comprises reinsurers and financial institutions providing general financing facilities.