

# White Collar Defense and Investigations



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One Manhattan West  
New York, NY 10001  
212.735.3000

22 Bishopsgate  
London EC2N 4BQ  
44.20.7519.7000

## OFSI Issues First Monetary Penalty for Breach of Sanctions Imposed on Russia in Response to Its Invasion of Ukraine

On 27 September 2024, the UK's financial sanctions regulator, the Office of Financial Sanctions Implementation (**OFSI**), announced that it had issued its first monetary penalty for a breach of UK financial sanctions imposed against Russia following its invasion of Ukraine in February 2022. OFSI imposed a £15,000 penalty on Integral Concierge Services Limited (**ICSL**), a property management company, in relation to a series of payments it made or received in connection with services provided to a designated person. Importantly, part of the penalty was imposed on a strict liability basis.

### OFSI Enforcement Powers

OFSI issued the penalty pursuant to its powers to impose monetary penalties for breaches of financial sanctions under Section 146 of the Policing and Crime Act 2017 (**PACA**).

PACA provides that where OFSI is able to estimate the value of the breach, the permitted maximum fine is the greater of: (i) £1 million or (ii) 50% of the estimated value of the breach. Where the value of the breach cannot be estimated, the permitted maximum fine is £1 million.<sup>1</sup>

Since 15 June 2022, OFSI has had the power to impose civil monetary penalties on a strict liability basis, meaning that, in the event of financial sanctions breaches that occur after this date, OFSI is no longer required to prove that the offender “knew or had reasonable cause to suspect” that their conduct constituted a breach.

In this case, ICSL's breaches occurred both before and after 15 June 2022. For the breaches that occurred prior to this date, in order to impose a penalty, OFSI still needed to be satisfied that, on the balance of probabilities, ICSL violated prohibitions imposed by financial sanctions legislation and either knew or had reasonable cause to suspect that the company's actions violated those prohibitions. For the breaches that occurred on or after this date, OFSI only had to be satisfied that, on the balance of probabilities, a violation had occurred.

### ICSL Penalty

On 27 September 2024, OFSI announced that, on 29 August 2024, it had imposed a monetary penalty of £15,000 against ICSL, a UK-registered property management and concierge company that provides services “primarily to Russian and Ukrainian nationals.”

<sup>1</sup> See §§ 146(3) and (4) of PACA.

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The authority issued the penalty in relation to breaches of the UK's asset freeze prohibitions under the Russia (Sanctions) (EU Exit) Regulations 2019 (the **Regulations**).<sup>2</sup>

The penalty specifically related to 26 payments, totaling £15,487.30, made or received by ICSL in 2022 and 2023, in connection with property management services the company provided to a person that had been designated for the purposes of an asset freeze in the UK in early 2022 (the **DP**). The OFSI notice states that the DP owns a property in the UK, and ICSL continued to provide management services in respect of that property after the DP was designated.

The notice specifies that ICSL, which had provided services to the DP since 2015, continued to provide services to, and facilitate payments on behalf of, the DP from the date of designation until 4 May 2023. These services included collecting rent from tenants, paying for maintenance of the property and collecting ICSL's own management fees from the DP's client account with ICSL. Using a combination of the DP's client account, ICSL's own business account and a personal savings account, ICSL also made several transfers between accounts that dealt with the DP's funds. All the payments were made without a specific licence having been granted by OFSI (or under the cover of a general licence).

In addition, ICSL failed to fulfil the reporting requirements under general licences issued by OFSI allowing designated persons (or others on their behalf) to make payments to gas, electricity and water companies in the UK.<sup>3</sup> ICSL made six payments to utilities and water companies pursuant to these licences. While these payments were not themselves breaches of the Regulations, ICSL failed to comply with the reporting requirements contained in the licences. OFSI considered these failures to constitute a breach of regulation 67(2) of the Regulations (which makes it an offence for a person who acts under the authority of a licence to fail to comply with any condition of the licence), but decided not to impose a monetary penalty in respect of these breaches. Instead, OFSI considered the breaches to be an aggravating factor when evaluating ICSL's conduct overall.

<sup>2</sup> OFSI's report on the penalty indicates that the fine was imposed specifically for breaches of regulations 11(1) and 13(1) of the Regulations. Regulation 11(1) prohibits persons from dealing with funds or economic resources owned, held or controlled by a designated person (if they know, or have reasonable cause to suspect, that they are dealing with such funds or economic resources). Regulation 13(1) prohibits persons from making funds available to any individual or entity for the benefit of a designated person (if they know, or have reasonable cause to suspect, that they are making the funds so available).

<sup>3</sup> See [INT/2022/2300292](#) and [INT/2023/3179120](#). Both licences required persons who used the licence to provide certain information to OFSI, including the name of the utility/water company, the amount(s) paid, the payment route used and the date on which the funds were paid.

ICSL did not voluntarily disclose any of its breaches to OFSI, and so a penalty-reduction discount was not applied to the company's fine. ICSL did not challenge the penalty and paid the fine in full.

## Takeaways

OFSI has previously signalled its intent to increase enforcement activity related to breaches of the UK's sanctions regimes. In August 2023, OFSI first used its "name and shame" powers to publish details of a sanctions breach. The monetary penalty against ICSL is the first under the UK's Russia sanctions regime since February 2022 and signals that greater enforcement activity is on the horizon. This is particularly likely in relation to activity that OFSI considers may "blunt" the intended effect and policy objective of UK sanctions. The ICSL penalty provides some clarity on the aggravating and mitigating factors that OFSI considers when assessing a breach of sanctions.

Regarding the aggravating factors OFSI considered when assessing ICSL's breach, the agency determined that, although most of the payments were of low-value, their cumulative total and repeated nature was serious. OFSI also considered that ICSL's actions reduced the disruption that the asset freeze ought to have caused for the DP, which blunted the intended effect of the measures.

OFSI took into account a number of mitigating factors, including the fact that, had ICSL applied for a licence to make and receive the payments, OFSI may have granted one. OFSI also considered that ICSL cooperated with OFSI's investigation by providing information about breaches the company had committed which OFSI had not identified. Although ICSL was not eligible for a penalty reduction given that the company had not made a voluntary disclosure, OFSI recognised the company's cooperation during the agency's investigation as a mitigating factor.

The penalty highlights the importance for all companies — no matter their size — to understand their exposure to sanctions risks and to take appropriate actions to address such risks. This includes recognising higher-risk factors that may expose a business to greater sanctions risk. ICSL, a small property management company, admitted during OFSI's investigation that the company's knowledge of the UK's sanctions regime was "extremely limited," and the company was unaware of its sanctions obligations beyond not making direct payments to the DP and refraining from facilitating further rental payments to the DP's client account. In OFSI's publication notice related to the penalty, the agency noted that ICSL had made no attempt to educate itself about its legal obligations and had continued to operate its business as usual following the DP's designation. OFSI also noted that ICSL's

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primarily Russian and Ukrainian client base should have been considered a higher risk factor that led the company to seek better understanding of its sanctions responsibilities.

The penalty also highlights the various avenues through which enforcement action may arise. As noted above, ICSL did not make a voluntary disclosure in relation to its breaches. Therefore a report to OFSI was likely made by a financial institution involved in the payments made or received in connection with the services provided to a designated person. Financial institutions have a mandatory obligation to inform OFSI as soon as practicable if they know or reasonably suspect that a person has committed offences under certain UK regulations, where that information is received in the course of carrying on the financial institution's business.

## Conclusion

We expect UK authorities, including OFSI, to continue to bring new enforcement action related to violations of UK sanctions. This includes both civil and criminal enforcement.

Later in October 2024, the Office of Trade Sanctions Implementation (**OTSI**) — OFSI's sister agency with responsibility for civil enforcement of most trade sanctions activity — will begin operating.<sup>4</sup> OTSI is likely to use its investigation powers to increase scrutiny of alleged trade sanctions violations, particularly given that the circumvention of sanctions regimes related to Russia is a key issue Western governments are seeking to address.

<sup>4</sup> See our 23 September 2024 alert "[UK Government Announces Powers of New Trade Sanctions Enforcement Agency](#)" for a discussion of OTSI's enforcement powers.

While criminal prosecution is reserved for the most serious sanctions breaches, we expect to see greater activity in this area too. For example, in February 2024, the UK charged Dmitry Ovsyannikov, the former governor of Sevastopol, with allegedly circumventing the UK sanctions regime and with money laundering. Mr. Ovsyannikov's trial is due to commence at Southwark Crown Court in 2025 and is the first time that the UK is prosecuting a person for circumvention of the country's autonomous sanctions on Russia. Additionally, there are other examples of UK authorities using the overlap between anti-money laundering and sanctions laws to bring enforcement action, including the National Crime Agency obtaining the UK's first forfeiture of sanctioned funds and, more recently, the Financial Conduct Authority (**FCA**) imposing a fine for systems and control failings specifically related to financial sanctions screening and anti-money laundering controls.<sup>5</sup> We expect UK enforcement authorities to increase their focus on the intersection between sanctions and money laundering offences going forward.

In the meantime, the action taken against ICSL reinforces the importance for businesses of any size to implement policies and procedures to ensure compliance with UK sanctions where required. Businesses should regularly review and assess sanctions-related risk in their operations, particularly where firms carry a higher risk of exposure to clients or counterparties that may be within the scope of UK sanctions.

<sup>5</sup> See the [FCA's Final Notice Memo 730166](#).

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## Contacts

### Ryan D. Junck

Partner / London  
44.20.7519.7006  
ryan.junck@skadden.com

### Jonathan Benson

Counsel / London  
44.20.7519.7218  
jonathan.benson@skadden.com

### Jason Williamson

European Counsel / London  
44.20.7519.7093  
jason.williamson@skadden.com

### Jack Zaher

Associate / London  
44.20.7519.7237  
jack.zaher@skadden.com

### Karolina Kopczynska-Grobelny

Associate / London  
44.20.7519.7663  
karolina.kopczynska-grobelny@skadden.com