

Alert | Export Controls & Economic Sanctions



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UK Announces New OTSI Civil Enforcement Powers on Trade Sanctions

On 12 September 2024, His Majesty’s Government (HMG) published the [Trade, Aircraft and Shipping Sanctions \(Civil Enforcement\) Regulations 2024](#) (Regulations), introducing new civil enforcement powers for the Office of Trade Sanctions Implementation (OTSI), part of the Department of Business and Trade (DBT). Launching in October 2024, OTSI will be [responsible](#) for the civil enforcement of certain trade sanctions as they relate to UK services and overseas trade with a UK nexus.

The Regulations, which take effect 10 October 2024, apply to all UK persons, including businesses, wherever they are in the world, as well as any person and businesses in the UK or the UK’s territorial sea, including branches of UK companies operating overseas.

Context

The Regulations provide new powers for the civil enforcement of trade, aircraft, and shipping sanctions, with OTSI responsible for the civil enforcement of trade sanctions and the Department for Trade (DfT) covering aircraft and shipping sanctions (not covered in this GT Alert). They also impose new reporting obligations.

OTSI will have the power to investigate and take enforcement action in relation to:

- providing or procuring sanctioned trade services;

- moving, making available, or acquiring sanctioned goods outside the UK;
- transferring, making available, or acquiring sanctioned technology outside the UK;
- providing ancillary services to move, make available, or acquire sanctioned goods outside the UK; and
- providing ancillary services to transfer, make available, or acquire sanctioned technology outside the UK.

In addition, OTSI will assume responsibility for licensing legal and other professional services.

These new civil powers to enforce certain trade sanctions are in addition to, and separate from, HM Revenue and Customs' (HMRC) existing criminal enforcement powers. HMRC remains responsible for enforcing trade sanctions that fall within its remit as the UK's customs authority where they relate to:

- importing or exporting goods to or from the UK;
- transferring technology to or from the UK;
- providing ancillary services to import and export goods and transfer technology to or from the UK; and
- goods and technology, such as military and dual-use goods and technology, which are subject to strategic export controls.

Most breaches of the Regulations will be determined on a “strict liability” basis i.e., OTSI will not need to prove that the breach was intentional. OTSI can impose a maximum fine of either £1 million or 50% of the estimated value of the breach, whichever is higher. It can also refer cases to other organisations such as regulators, HMRC, Companies House, or the Insolvency Service, as well as publicise breaches.

Information Requests

OTSI will also have the power to request information (including the production of documents, such as copies of commercial invoices, due diligence reports, export/import licences, letters of credit, proof of insurance, sale contracts, and more) where it believes the person subject to the request may be able to provide it.

A person who refuses or fails to comply with OTSI's request for information without providing a reasonable excuse, or who knowingly or recklessly provides false information or produces a document containing false information, would be committing a criminal offence.

Reporting Requirements

Regulated financial institutions, legal service providers, and money service businesses must report any third party for whom they have any knowledge or cause to suspect, obtained while conducting business, has breached trade sanctions. Any such report should be made as soon as practicable.

While obligation on legal service providers is subject to an exception where legal professional privilege protects information, such a position can be challenged.

Conclusion

OTSI's launch emphasizes HMG's continuing focus on and investment in sanctions enforcement.

HMG has indicated that OTSI's priorities include raising awareness of and supporting businesses with trade sanctions and compliance, and as part of that OTSI may deploy its information-seeking powers. Businesses and individuals within OTSI's remit should consider taking steps now to put procedures in place, if not already implemented, to respond to such requests and minimise the risk of violations.

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