

# What Did I Miss? Key UK Sanctions Updates From Q3-4 2024

Article

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## Overview

In recent months, the United Kingdom's sanctions regime has received noteworthy updates with implications for a range of entities operating both domestically and abroad. The changes are housed in an update to the Russia (Sanctions) (EU Exit) Regulations 2019 (the Russia Sanctions Regulations) and the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 (the Trade Sanctions Regulations) which respectively came into force on 31 July and 10 October, 2024. In overview:

- **Secondary sanctions:** The new Russia Sanctions Regulations permit the designation of foreign entities including financial institutions which facilitate transactions assisting the Russian government, indicating a shift to a more US-style extra-territorial approach.
- **Expanded designation criteria:** The criteria by which individuals or entities may be "designated" as sanctioned have radically broadened to include those providing indirect support to Russian entities or indirectly destabilising Ukraine. Put simply, entities providing specified types of assistance to sanctioned entities may now be subject to sanctions too.
- **Expanded specification criteria:** Similarly, the "relevant activities" for which a ship can be "specified" as sanctioned are no longer limited to circumventing the Russia Sanctions Regulations and also include ship-to-ship transfers and transfers between two third parties.
- **New Office of Trade Sanctions Implementation (OTSI):** The Trade Sanctions Regulations have created a new unit within the Department of

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Business and Trade to provide stronger civil enforcement against certain trade sanctions violations on a strict liability basis.

- **Office of Financial Sanctions Implementation (OFSI) enforcement:** OFSI has recently issued a fine of £15,000 against a property management company for providing services to a designated individual in breach of the Russia Sanctions Regulations. Importantly, this is the first time that OFSI has exercised its enforcement powers on a strict liability basis and the first OFSI penalty since Russia's invasion of Ukraine.

In combination, these developments reflect the United Kingdom's continued commitment to closing sanctions loopholes and preventing evasion through third parties and creative supply chains, reflecting a growing extraterritorial ambition in line with global sanctions trends.

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## Secondary Sanctions

A notable aspect of the updated Russia Sanctions Regulations is the perceived shift in focus towards foreign entities that are not subject to UK law. While not overtly labelled as "secondary sanctions", the instrument's explanatory memorandum states a clear intention to expand "*the criteria under the Regulations to designate entities, including foreign financial institutions that facilitate transactions on behalf of, or in support of, specified sectors of strategic significance to the Russian government*" (emphasis added). The intent is clear: to restrict foreign financial institutions and companies that continue to support, however indirectly, the Russian war effort. The UK government insists that this is in line with G7 commitments to limit Russia's use of the international financial system to finance its war against Ukraine.

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## Expanded Designation Criteria

Under Regulation 6(1) of the Russia Sanctions Regulations, a person may only be designated if there are reasonable grounds to suspect that they are an "involved person" *and* if the designation is appropriate, bearing in mind the purposes of UK sanctions and the likely significant effects of the designation. Regulation 6(2) defines an "involved person" by reference to their involvement "*in destabilising Ukraine or threatening the territorial integrity, sovereignty or independence of Ukraine, or obtaining a benefit from or supporting the Government of Russia.*"

Regulation 6(3) sets out various categories of "involved persons." The updated regulations broaden the concept of "involvement" by providing that any person is also an "involved person" if they:

- own or control, directly or indirectly, or work as a director (whether executive or non-executive), trustee or other manager or equivalent of, an entity that

could be considered an “involved person” under any of the previous categories under Regulation 6(3); or

- have the right, directly or indirectly, to nominate at least one director (whether executive or non-executive), trustee or equivalent of, an entity that could be considered an involved person under any of the previous categories of “involved person.”

Regulation 6(4) defines what it means to be an “involved person” by virtue of “*obtaining a benefit from or supporting the Government of Russia.*” The updated regulations expand the meaning of “involvement” here by stipulating that any person who provides financial services, or makes available funds, economic resources, goods or technology to a person or an entity falling within any of the previous categories provided by Regulation 6(4) is also an “involved person”. Put simply, providing assistance to an “involved person” now makes you an “involved person” too.

Regulation 6(4A) defines a further category of “involved persons” who are involved by virtue of their work for or affiliation to the Government of Russia. The updated regulations insert a new Regulation 6(4A)(m) to include in this category of “involved persons” any person providing financial services, or making available funds, economic resources, goods or technology, to any person deemed to be “involved” under Regulation 6(4A).

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## Expanded Specification Criteria for Vessels

As with designation, ships may only be “specified” under Regulation 57F if there are reasonable grounds to suspect that the ship is, has been, or is likely to be, involved in a “relevant activity” and that it is appropriate to specify the ship, having regard to the statutory purposes of specification set out in Regulation 4.

Notably, a ship is now “*involved in a relevant activity*” if its object or effect is, put simply, to support or benefit Russia or destabilise Ukraine. Previously, “relevant activities” were limited to activities with the purpose or effect of circumventing UK sanctions.

The Russia Sanctions Regulations then specify that “relevant activities” include carrying dual-use or military goods, oil and oil products and “*any other goods or technology that could contribute*” to the Russian war effort. Without reproducing the details at length, the scope of the net is very broad: carrying any of these categories of cargo between two third countries would qualify as a “relevant activity.” Moreover, the updated regulations expand the meaning of “carrying” to include the transfer of goods or technology between ships (ship-to-ship transfers).

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## Office of Trade Sanctions Implementation

In the sphere of trade sanctions enforcement, the Trade Sanctions Regulations bring another facet to the UK's sanctions enforcement landscape. The newly created Office of Trade Sanctions Implementation is responsible for overseeing the civil enforcement of trade sanctions, giving it powers on par with OFSI. As of 10 October, 2024, OTSI has the authority to impose monetary penalties on a strict liability basis and demand compliance from businesses across a broad range of industries which now face mandatory reporting obligations for any known or suspected breaches of UK trade sanctions.

Under OTSI's enforcement framework, civil penalties can be imposed without proof of intent, negligence or recklessness. This liability standard reduces the burden of proof to a factual assessment of whether a breach occurred without determining fault for the breach. This mirrors OFSI's strict liability standard, which has already led to increased enforcement since its adoption in 2022. The strict liability standard is a noteworthy feature as it prevents offenders from pleading ignorance or arguing that they discharged oversight obligations in relation to breaches of trade sanctions.

OTSI also introduces a significant increase in transparency compared to its predecessor, HM Revenue & Customs (HMRC). Enforcement for trade sanctions under HMRC often involves opaque compound penalties and referrals for criminal prosecution, where breaches must be proven to a criminal standard. For example, HMRC announced on 4 November that it issued compound settlement offers to three UK exporters, collectively worth £1.9 million, during August and September of 2024 which reinforces the impression of a general increase in trade sanctions enforcement. The process for penalty calculation and enforcement is expected to be more transparent under OTSI due to mandatory reporting obligations.

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## OFSI Monetary Penalty

On 27 September, 2024, OFSI imposed its first monetary penalty under the Russia Sanctions Regulations, fining Integral Concierge Services Limited (ICSL) £15,000. ICSL, a UK-based property management firm, had provided services to a designated individual subject to an asset freeze without obtaining the required OFSI license, despite being aware of the individual's sanctioned status.

The penalty is notable for applying the strict liability standard introduced by OFSI in June 2022, meaning that OFSI did not need to demonstrate that ICSL knowingly breached sanctions, only that a breach occurred. In this case, ICSL continued to manage property and collect rent on behalf of the designated individual, facilitating the maintenance of their assets and thereby undermining

the intended impact of the sanctions. Although the breach involved relatively small sums, totalling £15,487, the case underscores that even low-value transactions can attract enforcement action when they blunt the effectiveness of sanctions.

This enforcement action also emphasizes the role of financial institutions in identifying and reporting potential breaches. It is likely that OFSI became aware of ICSL's violation through a mandatory report from a financial institution involved in ICSL's transactions, demonstrating how sanctions enforcement is increasingly interconnected with the financial sector's compliance obligations.

The ICSL case serves as a warning to UK businesses, regardless of size, about the importance of sanctions compliance. The risk of penalties under the strict liability standard, combined with mandatory reporting requirements, means that businesses must be proactive in managing their exposure to sanctions risks. ICSL's decision not to voluntarily disclose its breach cost it the opportunity for a reduced penalty, underscoring the advantages of transparency and cooperation with enforcement authorities.

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## Impact and Takeaways

These developments signal a notable escalation in the United Kingdom's approach to sanctions. With both OTSI and OFSI able to impose strict liability penalties, businesses face heightened risks even for unintentional breaches. The fine imposed on ICSL underscores that even relatively small infractions can result in enforcement action when they involve sanctioned individuals or entities.

While the penalty may be low, the knock-on effects of any enforcement action are often much more significant:

- **Covenant breaches:** Sanctions violations of any nature may trigger financial covenants in loan agreements through general or specific compliance obligations.
- **Increased scrutiny:** Having an enforcement action recorded against a company's name often leads to increased scrutiny from commercial counterparts who may, especially if operating in regulated sectors, require particularly stringent compliance practices.
- **Broader financial implications:** Amongst others, insurers may re-evaluate the terms offered according to the increased risk resulting from the sanctions violation, no matter how severe the direct penalty for the violation.
- **Market perceptions:** Enforcement actions emit a negative signal to markets and may affect investor confidence. Without appropriate mitigation, reputational harm can significantly impact shareholder value and make capital-raising efforts more challenging.

The broadened scope of sanctions — extending to those indirectly supporting Russia — further complicates compliance. Beyond conducting due diligence on direct counterparties, the updated regulations call for a further-reaching investigation: a counterparty's client base is now a relevant consideration. This expansion is particularly relevant for industries with complex networks, such as shipping and logistics, where ship-to-ship transfers and third-party trades could inadvertently violate sanctions.

To summarize, this renewed determination to close loopholes and enforce sanctions more aggressively should not go unnoticed. Businesses must respond by strengthening their compliance frameworks to correspond to these changes and avoid inadvertent breaches.