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Introduction

The term “sanctions” can refer to a wide range of actions, imposed by national governments and international bodies, including trade embargoes, financial restrictions, travel bans and export controls. Although some states do impose country-wide sanctions, sanctions are more commonly restrictions on targeted individuals, entities or organisations (often called “Designated Persons”), including but not limited to restrictions on their economic activity.

This roadmap focusses on financial sanctions. Financial sanctions commonly take the form of freezing assets of, and prohibiting the transfer of economic resources to, Designated Persons. Financial sanctions can also be targeted in other ways, such as on a sectoral basis. Persons and entities that are owned or controlled, directly or indirectly, by a Designated Person may also be subject to financial sanctions, and those who engage with a Designated Person may become the subject of financial sanctions themselves. Organisations may even find that proactively acting in compliance with one financial sanctions regime may expose it to liability under another regime elsewhere. A breach of financial sanctions legislation, or a deliberate circumvention, is often a criminal offence.

To manage financial sanctions risk in an informed, effective and efficient way, organisations need to understand the financial sanctions risks to which their business is exposed and then, on that basis, identify mitigating actions in response.

Set out below is a ‘roadmap’ of questions designed to identify information and issues which are going to be pertinent to understanding your organisation’s financial sanctions exposure. Having answered these questions, an assessment can be made of the extent to which your organisation’s policies and procedures adequately address those risks and what, if any, further measures your organisation needs, or wants, to take. References in this roadmap to “sanctions” are to financial sanctions.
1. Your financial sanctions exposure

1.1 Country risk

☐ Which countries do you have an operational base in and what is the nature of that operation (for example, does it involve subsidiaries or joint ventures)?

☐ Which other countries do you transact/undertake business with? (For example, do you have suppliers, agents or customers in those countries?)

☐ Are you aware of any individuals/entities in, or citizens/nationals of, any of the countries you have identified above, who operate in your sector and are subject to sanctions designation?

1.2 Sectoral risk

☐ What business does your organisation transact/undertake in each of the countries in which you operate, transact or otherwise undertake business?

☐ Do you undertake business in sectors that are perceived as having a high sanctions risk, such as defence, energy & infrastructure, financial services (including payment and investment services), immigration?

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2. Your approach to financial sanctions compliance

2.1 Responsibility
☐ Is a specific individual (at senior management/Board level or equivalent) responsible for ensuring your organisation is compliant with sanctions?

2.2 Risk assessment
☐ Has your organisation undertaken any assessment or consideration of the sanctions risks it faces and, if so, when was that assessment last undertaken?

2.3 Due diligence
☐ Do you use any independent third party due diligence service providers (entities who perform independent checks on third parties for you or provide software to enable you to undertake such checks)? If so, what package do they provide?

☐ What other steps, if any, do you take to address or manage the sanctions risk arising through customers, business partners and third parties?

For example, does your organisation:

(i) Have sanctions or other contractual clauses in your contracts with customers, business partners and/or third parties to mitigate against sanctions risks (such as requiring them to comply with applicable laws, comply with a supplier code of conduct, provide a right of audit, provide a right of termination)?

(ii) Undertake audits of business partner and third party sanctions processes?

(iii) Communicate your sanctions policy to customers, business partners and third parties?

☐ Do you accept or provide any economic benefits (e.g. deposits) before the customer due diligence procedure has concluded?

2.4 Policies and procedures
☐ Does your organisation have:

(i) a Sanctions Policy?

(ii) customer, supplier and/or other business partners due diligence policies?

(iii) a Whistleblowing Policy?

(iv) any other policies which may assist the business in avoiding dealing with a sanctioned person unknowingly (for example, delegation of authority policy, conflicts of interest policy, or a specific reference to sanctions contraventions in the disciplinary policy)?

☐ Is compliance with the policies and procedures set out above monitored?

☐ Are your sanctions procedures consistent across the jurisdictions in which you transact business?

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2. Your approach to financial sanctions compliance

2.5 Reporting policy

☐ Does your sanctions policy or procedure include a reporting policy, where personnel are made aware of any reporting obligations they may have?

☐ Does this reporting policy differentiate between the reporting of a potential sanctions breach and the reporting of general information that may be required by regulators (for example, if a customer is a designated person)?

☐ Do you require personnel to provide a signed confirmation that they have read and understood your sanctions policy?

☐ Other than through training and the provision of any sanctions policy, does your organisation communicate sanctions risks to relevant personnel (for example, through compliance reminder emails or discussion at team meetings)?

☐ Are personnel aware of who to contact with a sanctions issue?

☐ Does your organisation have a whistleblowing procedure?

2.6 Communications and training

☐ Does your organisation provide sanctions training to all relevant employees?

(i) How often is the training provided/repeated?

(ii) Does the training include a test?

(iii) Are training records (including attendance and materials) retained?

☐ Do you require personnel to provide a signed confirmation that they have read and understood your sanctions policy?

☐ Other than through training and the provision of any sanctions policy, does your organisation communicate sanctions risks to relevant personnel (for example, through compliance reminder emails or discussion at team meetings)?

☐ Are personnel aware of who to contact with a sanctions issue?

☐ Does your organisation have a whistleblowing procedure?

2.7 Monitoring and review

☐ What steps does your organisation take to monitor its exposure to sanctions risk (such as updating your sanctions risk assessment at set intervals)?

☐ What information is collected to assess compliance with your sanctions policy and procedures. For example:

(i) Training attendance and comprehension;

(ii) Due diligence records;

(iii) Whistleblower reports concerning potential sanctions issues; and/or

(iv) Internal/external audit checks on compliance.

☐ What financial controls does your organisation have in place to prevent sanctions issues arising and/or monitor compliance with sanctions policies (for example, third party payment authorisations, monetary limits for transfers in certain jurisdictions)?

☐ Is compliance with sanctions reviewed by the Board (or equivalent) and/or senior management?

(i) If so, how often is it discussed/on the agenda?

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3. Specific concerns

☐ Have any potential sanctions issues or red flags been identified as part of any internal or external audits, or from whistleblower reports, within the past 5 years?

   (i) If so, how were these dealt with?

☐ Are you aware of any allegations, inquiries, investigations, prosecutions or other actions by a State regulator or prosecutor which may indicate a sanctions issue connected to your organisation or a third party that your organisation engages with?

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