

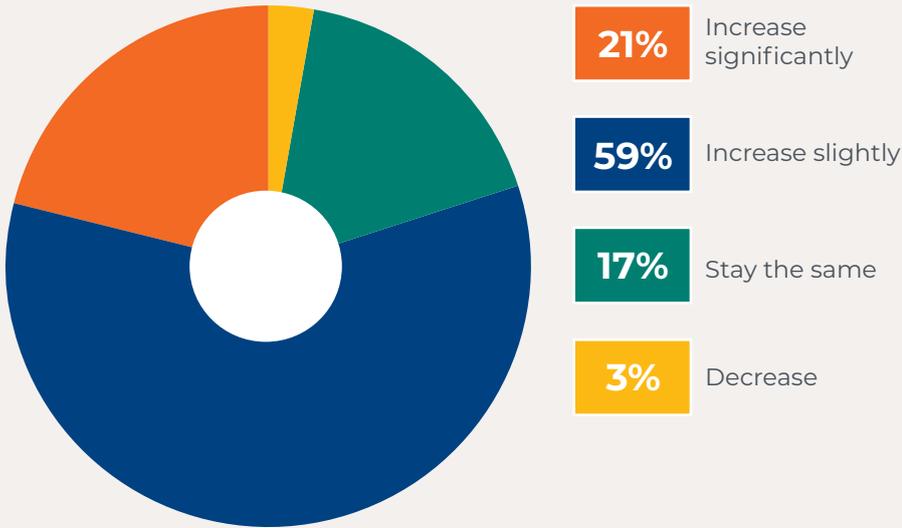


WHAT'S IN STORE FOR 2024:

WILL THE CREATION OF 'OTSI' USHER IN A NEW ERA OF UK SANCTIONS ENFORCEMENT?

The UK Government has announced the creation of the Office of Trade Sanctions Implementation (OTSI) in an effort to clamp down on sanctions evasion and strengthen enforcement. As the UK, alongside its international partners, continues to implement strict sanctions measures on Russia, the commitment of resources to a department focusing specifically on enforcement across all UK trade sanctions regimes signals an appetite for an increase in UK enforcement action.

Over the next 12 months, how do you expect the enforcement of international sanctions to change?



OTSI

Set to be launched in early 2024, OTSI, which will form part of the Department for Business and Trade, will bolster the UK government's sanctions enforcement powers by (i) investigating potential trade sanctions breaches, (ii) issuing civil penalties for trade sanctions breaches, and (iii) referring cases to HMRC for criminal enforcement where necessary.

OTSI also has trade sanctions business engagement and guidance within its list of responsibilities and has set out the following priorities: (i) raising awareness of trade sanctions, (ii) supporting businesses with compliance with trade sanctions, (iii) detecting and responding to suspected breaches, taking enforcement action where justified, and (iv) maintaining and building confidence in the UK's trade sanctions.¹

UK Sanctions Enforcement

The intention is for OTSI to complement other government departments, such as the Office of Financial Sanctions Implementation

(OFSI), as the government recognises the need for an expanded toolkit of enforcement powers for trade sanctions breaches.

OFSI is responsible for financial sanctions and, since 2022, new powers under the Economic Crime (Transparency and Enforcement) Act 2022 have allowed OFSI to impose civil monetary penalties on a strict civil liability basis for breaches of financial sanctions.

OFSI reported ever-closer collaboration with the US's Office of Foreign Asset Control and, in her speech announcing OTSI on 11 December 2023, Minister of State Nusrat Ghani MP confirmed that the UK is working closely with international partners such as the US and EU to "enforce sanctions effectively".²

It is clear that the UK government are moving to a more proactive sanctions enforcement model, which is further highlighted by the increased resource in OFSI's enforcement team in 2022-2023 by 175%, and as of April 2023, OFSI reported that its enforcement unit had 172 cases under live investigation.³

Looking Ahead

Regulators are under pressure to show that sanctions measures are effective. Part of that involves demonstrating that there will be enforcement against those who breach sanctions. As part of a recent survey on sanctions risks, HFW asked how respondents expect the enforcement of international sanctions to change over the next 12 months and we were not surprised to see that 80% of our respondents expect to see an increase in enforcement.

With sanctions risks constantly evolving and the enforcement risk associated with a breach of sanctions never being higher, it is even more important that organisations review their sanctions compliance procedures and ensure that these procedures are effective to identify and manage trade and financial sanctions risks.

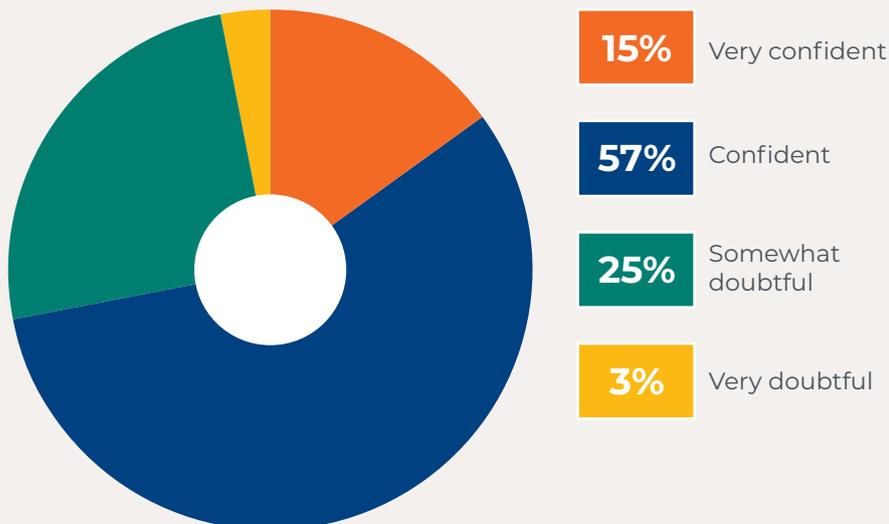
We expect OTSI to publish guidance on the calculation of penalties, the basis for calculation of penalties and whether such penalties or OTSI investigations will be publicised.

¹ OTSI – About us: <https://www.gov.uk/government/organisations/office-of-trade-sanctions-implementation/about>

² Nusrat Ghani MP speech: <https://www.gov.uk/government/speeches/office-of-trade-sanctions-implementation-announcement>

³ OFSI Annual Review 2022-2023: <https://www.gov.uk/government/publications/ofsi-annual-reviews/ofsi-annual-review-2022-to-2023-strengthening-our-sanctions>

Are you confident that your business has fully identified its exposure to current sanctions risk?



We have seen, with OFSI, that prompt voluntary disclosure of a breach of financial sanctions may be a mitigating factor when it comes to an investigation. We anticipate that OTSI will also take a similar view on voluntary disclosures of trade sanctions breaches.

As such, commercial organisations should adopt a dynamic approach by:

- Understanding the sanctions restrictions which are imposed;
- Mapping those restrictions against their commercial activities; and
- Adopting risk-based policies and procedures, including employee training, to manage and mitigate sanctions risks.

Unsurprisingly, recent data we have collected suggests that a significant number of organisations are not fully confident that their exposure to current sanctions has been identified.

We help clients to identify sanctions risks and devise effective and proportionate procedures to manage those risks. We help them to keep up to date on the latest developments, providing bespoke training and advice, as well as reviewing policies and procedures to ensure they remain fit for purpose.

For more information, please contact:



DANIEL MARTIN
Partner, London
T +44 (0)20 7264 8189
E daniel.martin@hfw.com



DAVID SAVAGE
Partner, London
T +44 (0)20 7264 8094
E david.savage@hfw.com



JAMES NEALE
Senior Associate, London
T +44 (0)20 7264 8470
E james.neale@hfw.com



RICHARD SOYOYE
Associate, London
T +44 (0)20 7264 8379
E richard.soyoye@hfw.com



STEPHEN GREEN
Associate, London
T +44 (0)20 7264 8346
E stephen.green@hfw.com

HFW has over 600 lawyers working in offices across the Americas, Europe, the Middle East and Asia Pacific. For further information about our trade sanctions capabilities, please visit [hfw.com/Trade-Sanctions](https://www.hfw.com/Trade-Sanctions).

© 2024 Holman Fenwick Willan LLP. All rights reserved. Ref:005728

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice. Holman Fenwick Willan LLP is the Data Controller for any data that it holds about you. To correct your personal details or change your mailing preferences please email hfwenquiries@hfw.com

Americas | Europe | Middle East | Asia Pacific