



UK GOES IT ALONE: THE UK'S NEW HUMAN RIGHTS SANCTIONS REGIME

The UK's exit from the European Union will allow the UK to pursue its own sanctions policy. This development has been hailed by politicians, with Dominic Raab announcing measures targeting those responsible for or involved in serious violations of human rights, and saying that "Global Britain will be an even stronger force for good in the world, in the years ahead". However, businesses will be forgiven for thinking that another set of regulations just means another set of headaches and compliance challenges.

On 6 July 2020 the UK for the first time used its powers standing outside the EU to introduce a domestic sanctions regime. The Global Human Rights Sanctions Regulations 2020 target those responsible for or involved in serious violations of human rights. As well as excluding the sanctioned persons from the UK, the UK has adopted measures which require UK persons to freeze the assets of 47 individuals and 2 entities, referred to as 'designated persons'.

The move mirrors similar regimes maintained in the US (so-called 'Magnitsky sanctions') as well as the proposed EU human rights sanctions regime.

The UK has directed the first round of sanctions at the following four targets:

- 21 Saudi individuals linked to the killing of Jamal Khashoggi in October 2018;
- 23 Russian individuals and one Uzbek individual linked to the detention and death of Sergei Magnitsky and the subsequent investigation;
- Two individuals from Myanmar linked to human rights violations against the Rohingya population; and
- Two North Korean entities linked to prison camps in North Korea.

These new sanctions mark a significant development in UK sanctions policy. The UK had previously delivered its sanctions almost exclusively through international fora such as the UN or the EU. The introduction of its own domestic human rights sanctions regime is a clear statement of intent. UK sanctions policy may increasingly diverge from the EU as we move to, and beyond, the end of the Brexit transition period. Management

of global sanctions risk is likely to become ever more complex and difficult to navigate.

Importantly, these UK sanctions apply not only to any persons within the UK or its territorial sea, but also to UK persons wherever they are located or acting. Businesses therefore need to identify and be aware of UK nationals wherever they are located in their organisation.

Commercial operators will be primarily concerned with the asset freeze which follows a structure that will be familiar to compliance professionals. All assets belonging to designated persons are required to be frozen and it is prohibited for UK persons to make funds or economic resources available to or for the benefit of designated persons.

The restrictions also apply to entities owned or controlled by designated persons. More specifically, the prohibition on making funds available indirectly to a designated person specifically prohibits making them available to a person who is owned or controlled directly or indirectly by a designated person.

Interestingly, while the definition of ownership is similar to the approach in the US (albeit the UK definition covers not only direct but also indirect ownership of more than 50% of shares), a second condition needs to be satisfied (namely "that it is reasonable, having regard to all the circumstances, to expect that [the designated person] would (if [they] chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of [the owned entity] are conducted in accordance with [the designated person's] wishes").

Breach of the prohibitions may result in imprisonment for up to seven years or a fine. The Office of Financial

Sanctions Implementation (the UK's financial sanctions authority) has recently imposed its highest ever fine for a sanctions violation: a civil monetary penalty of GBP 20m imposed against Standard Chartered.¹

As with any update to sanctions lists, we recommend that anyone with any risk of exposure to the newly designated persons should review all counterparties, customers and suppliers to ensure there is no risk of an inadvertent breach.

Commercial operators should also be aware that the reporting requirements contained in this new regime are onerous for 'relevant firms' i.e. broadly financial and professional services firms, but also including persons dealing with high value assets.

Finally, it is important to ensure that sanctions policies and contractual protections such as sanctions clauses are fit for purpose and will respond directly to sanctions risks posed by unilateral UK measures.

For more information about how your business can reduce its exposure, or on any of the issues discussed above, please contact the author of this briefing.



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¹ <https://www.hfw.com/EU-Sanctions-Authorities-Start-to-Show-Their-Teeth>

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

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