

TANGO

On 20 January 2023, the United States Department of Justice announced that legal action was being taken against two individuals- Vladislav Osipov (51) a Russian national and Richard Masters (52) a UK national- who were arrested for facilitating a sanctions evasion scheme in relation to the motor yacht TANGO owned by sanctioned Russian oligarch Viktor Vekselberg.

This briefing focuses on the extraterritorial action taken by the US authorities in relation to Richard Masters.

US Law- Asset Freeze and Circumvention

Viktor Vekselberg is subject to a US asset freeze and is reported to be the ultimate beneficial owner of TANGO. US persons (and all persons when in the US) are prohibited from any transactions involving transferring, paying, exporting, withdrawing or otherwise dealing in the "property" or "interests in property" of a person subject to an asset freeze.

Moreover, under section 1705 of the International Emergency Economic Powers Act (**IEEPA**), it is unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this chapter. Section 1705 of IEEPA has extraterritorial application, meaning that a breach of section 1705 of IEEPA is a breach of US law, even if it is not committed on US soil or by a US person. As this action proves, the US authorities are willing to pursue enforcement action against non-US persons if they perceive there to have been a breach of a US asset freeze or an attempt to circumvent a US asset freeze.

Richard Masters- US Application

Richard Masters, according to the US authorities, was engaged in:

- Using shell companies, intermediaries and bank accounts in multiple countries to obfuscate Vekselberg's association with and ownership of TANGO, and therefore caused false information regarding the same to be sent to US banks processing US dollar transactions for TANGO;
- From Vekselberg's designation as a sanctioned person on April 6 2018:
 - using third-party intermediaries to make US dollar payments for TANGO;
 - invoicing bills for TANGO under false names and false terms;
 - engaging in other deceitful mechanisms in order to cause US financial institutions to process US dollar transactions; and
 - transacting further with US businesses in relation to the ongoing maintenance of TANGO.

As a result of this, the US authorities have decided that the following occurred:

- Vekselberg was able to evade the US Treasury's "Know Your Customer" regulations applicable to US financial institutions and the reporting of the aforementioned transactions to the US Treasury.
- This conduct caused US financial institutions to process transactions, including correspondent banking transactions, on behalf of TANGO, which, had those financial institutions known of the true beneficiary of the payments (i.e. Vekselberg) they would not have otherwise processed or would have investigated.
- This conduct caused US companies to provide goods and services to Vekselberg and TANGO, enabling Vekselberg to evade US sanctions.

This meant that, in contravention of a US asset freeze, US persons transacted services which enabled TANGO to continue to operate as a luxury yacht to the benefit of Vekselberg.

Masters was arrested by the Spanish authorities at the request of the US authorities as a result of his suspected circumvention of the US asset freeze (and thus breach of section 1705 of IEEPA). Whilst Masters has now been released pending further legal proceedings in Spain, this matter has not gone away and clearly shows that US authorities are able and willing to enforce against non-US nationals involved in the circumvention of a US asset freeze (for example by causing a US financial institution to breach a US asset freeze through deceit).

For Masters to actually be subject to this enforcement action, the Spanish authorities will first have to agree to the request by the US authorities that he be extradited to the US. If such request is accepted and Masters is extradited, he faces a criminal penalty in relation to a breach of a US asset freeze, of up to \$1 million in fines and a significant custodial sentence.

Richard Masters- UK Application

As a UK national, Masters is subject to UK sanctions law, even when operating abroad. Vekselberg is subject to a UK asset freeze and, as such, if the allegations made against Masters are founded, he is potentially in breach of such asset freeze.

OFSI would have the powers to impose a fine against Masters ranging from 50% of the total value of the breach up to £1 million, whichever is the greater value.

Alternatively, OFSI could seek to enforce a custodial sentence against Masters. Such a sentence could carry a maximum of 7 years' imprisonment on indictment and 12 months' imprisonment on summary conviction in England and Wales.

Richard Masters- EU Application

Vekselberg is not subject to an EU asset freeze. Thus, Masters' alleged actions in relation to TANGO would not breach the EU asset freeze.

This briefing is designed to provide information about potential enforcement action. It should not be read as a formal piece of legal advice to any specific person or persons.

For more information, please contact the author(s) of this alert



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



WILLIAM MACLACHLAN
Partner, London
T +44 (0)20 7264 8007
E william.maclachlan@hfw.com



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



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

hfw.com

© 2023 Holman Fenwick Willan LLP. All rights reserved. Ref:

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