



## SUSPECTED SANCTIONS BREACHES A FOCUS ON SECO

Switzerland's sanctions authority is the latest regulator to indicate its growing appetite for enforcement. We flag recent developments and offer some tips if you receive contact from a regulator in connection with suspected sanctions violations.

## SECO on the move

On 14 March 2023, Switzerland's State Secretariat for Economic Affairs (**SECO**) announced at a press briefing that they were examining approximately 100 cases for potential sanctions violations related to the Ordinance instituting measures in relation to the situation in Ukraine (946.231.176.72). Of that figure, SECO have initiated proceedings in 23 cases while the rest are still being considered. In 13 of these 23 cases, criminal proceedings were dropped due to lack of sufficient evidence.

The report is in line with our experience, in which we have represented clients approached by SECO in respect of suspected sanctions breaches and have successfully advised, leading to the closure of the investigation phase.

SECO's move reflects a broader international approach and takes place in the context of a political environment where there is extreme pressure on law enforcement agencies to police and punish sanctions evasion.

Against this backdrop, we offer some tips in this update. Importantly, if your business is approached by SECO we strongly recommend that legal advice is obtained from experts in advising on sanctions and communicating with SECO.

### US continues to lead the way

In addition to SECO, the US continues to be at the leading edge of suspected sanctions violations enforcement, with various officials emphasising the importance of imposing penalties for breaches. In particular, the US Office of Foreign Asset Control (**OFAC**) and the Department of Justice (**DOJ**) (Task Force Kleptocapture) have dedicated significant resources to policing and enforcing the sanctions against

Russia. The US is working with other international law enforcement agencies on sanctions investigations in what is a truly global effort.

### UK agencies also involved

On 17 October 2022, the UK's Office for Financial Sanctions Implementation (**OFSI**) and OFAC jointly announced their commitment to an enhanced partnership in respect of implementation and enforcement of sanctions, which in practice will mean more information sharing, strengthening best practices, and pooling expertise. OFSI has also pledged to increase its resourcing to 'over 100 staff members' by the end of the 2022-2023 financial year. The UK's National Crime Agency is working with international partners including the US in connection with sanctions enforcement.

### Our tips for best practice

HFW has deep sector expertise in commodities, trading and shipping and one of the largest dedicated specialist teams advising on compliance with sanctions and appropriate response to investigations by regulators, including SECO, of suspected breaches.

If your company is approached by SECO, or any regulator in relation to suspected sanctions breaches we set out below our top 5 tips:

1. Ensure the enquiry is passed to your General Counsel and/or your external counsel urgently.
2. Ensure records and documents that are the subject of the SECO enquiry are preserved.
3. Review the position in relation to the sanctions referenced and the alleged breaches (if identified by SECO).
4. Ascertain if the position may have been misconstrued due to a valid

defence. Note, many sanctions contain complicated wind-down provisions, which may mean that something that takes place after their enactment could in fact be lawful based upon obligations entered into before their prohibition entered into force. This area is complex and obtaining specialist legal advice is recommended.

5. Ensure that advice is taken before responding to an investigation commenced by SECO. The initial response to SECO is important for any investigation or enquiry and it is important to get this right.

Please get in touch if you would like more information.



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