

# Sanctions: Basic Guide for SMEs

## What are sanctions?

1. **Sanctions are measures that restrict customary trade and financial relations with a country, entity or individual.** They are used as a tool to bring about a change in policy, activity or behaviour of the sanctioned entities.<sup>1</sup> Reasons for imposing sanctions may include national security concerns (e.g., sanctions imposed by the US and the EU on Iran and North Korea), the promotion of human rights and democracy (e.g., the US Global Magnitsky programme), and anticorruption (e.g., the UK's Global Anti-Corruption Sanctions Regulations 2021).
2. **Sanctions may be comprehensive or targeted/limited.** Comprehensive sanctions may prohibit commercial activity with an entire country and may include broad, geographically-based trade restrictions. Targeted or limited sanctions, on the other hand, may prohibit transactions with particular businesses, groups, or individuals.<sup>2</sup> Sanctions may be imposed by countries or groups of countries (e.g., the European Union) as part of their foreign or national security policies, or by multilateral institutions (e.g., the United Nations).<sup>3</sup>
3. **Sanctions may take the form of** financial restrictions (e.g., prohibition on offering financial services to sanctioned entities), import and export bans (e.g., trade bans that may apply to a particular country or to a specific commodity), freezing of funds and assets, and restrictions on admissions (travel bans).<sup>4</sup>
4. **Ascertaining who needs to comply with a sanction depends on** which jurisdiction or authority issued the underlying sanctions regulation. In the United States, all US citizens and permanent resident aliens, all persons and entities in the US, all US-incorporated entities and their foreign branches, and in some instances, foreign subsidiaries owned or controlled by US companies and foreign persons in possession of US-origin goods must comply with US sanctions.<sup>5</sup> In the European Union, the obligation to comply with sanctions

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<sup>1</sup> 'Overview of sanctions and related tools' <[https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en)> accessed 20 May 2022

<sup>2</sup> United States Department of the Treasury – Office of Foreign Asset Control, *Ukraine/Russia-related Sanctions Program* <[https://home.treasury.gov/system/files/126/ukraine\\_overview\\_of\\_sanctions.pdf](https://home.treasury.gov/system/files/126/ukraine_overview_of_sanctions.pdf)> accessed 23 May 2022; Jonathan Masters, 'What are Economic Sanctions?' <<https://www.cfr.org/backgrounder/what-are-economic-sanctions>> accessed 20 May 2022

<sup>3</sup> United States Department of the Treasury, *Sanctions Programs and Country Information* <<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>> accessed 20 May 2022; European Commission, *Overview of sanctions and related tools*, <[https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en)> accessed 20 May 2022; Jonathan Masters, 'What are Economic Sanctions?' <<https://www.cfr.org/backgrounder/what-are-economic-sanctions>> accessed 20 May 2022

<sup>4</sup> United Nations Security Council – Sanctions <https://www.un.org/securitycouncil/sanctions/information> accessed 20 May 2022; United Kingdom Office of Financial Sanctions Implementation HM Treasury, *UK Financial Sanctions: General guidance for financial sanctions under the Sanctions and Anti-Money Laundering Act 2018 (2020)* <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1062452/General\\_Guidance\\_-\\_UK\\_Financial\\_Sanctions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1062452/General_Guidance_-_UK_Financial_Sanctions.pdf)> accessed 20 May 2022; European Commission, *Overview of sanctions and related tools*, <[https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en)> accessed 20 May 2022

<sup>5</sup> United States Department of the Treasury – Office of Foreign Asset Control, *Ukraine/Russia-related Sanctions Program* <[https://home.treasury.gov/system/files/126/ukraine\\_overview\\_of\\_sanctions.pdf](https://home.treasury.gov/system/files/126/ukraine_overview_of_sanctions.pdf)> accessed 23 May 2022; Jonathan

regulations falls on EU nationals, persons located in the EU, or those doing business in the EU.<sup>6</sup>

## What are the main impacts of sanctions on small and medium-sized enterprises (SMEs)?

Depending on the type and scope of the sanctions imposed, sanctions regulations may encompass several prohibited acts, including engaging in a transaction involving the property or interests in the property of an entity or individual on a sanctions list; providing credit or financing to a sanctioned entity or individual; or exporting and importing goods, services, or technology to and from a sanctioned country, entity, or individual in respect of certain sectors.<sup>7</sup>

Breaching sanctions may result in civil, criminal, and administrative liability. A breach of sanctions could be in the form of an outright violation, an attempt to violate, a conspiracy to violate, or aiding or abetting a violation of sanctions regulations. Civil liability may lead to fines, while criminal liability may result in monetary penalties and/or imprisonment. In the US, administrative actions may take the form of a denial, suspension, modification, or revocation of a general or specific license;<sup>8</sup> or the issuance of a cease-and-desist order.<sup>9</sup>

Beyond their legal consequences, sanctions also give rise to a gamut of practical implications, including trade disruptions, termination of contracts, limitations on credit and/or market access, difficulties in cross-border payments, and reputation damage.

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Masters, 'What are Economic Sanctions?' <<https://www.cfr.org/backgrounder/what-are-economic-sanctions>> accessed 20 May 2022

<sup>6</sup> European Commission, *Overview of sanctions and related tools*, <[https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en)> accessed 20 May 2022

<sup>7</sup> United States Department of the Treasury – Office of Foreign Asset Control, *Ukraine/Russia-related Sanctions Program* <[https://home.treasury.gov/system/files/126/ukraine\\_overview\\_of\\_sanctions.pdf](https://home.treasury.gov/system/files/126/ukraine_overview_of_sanctions.pdf)> accessed 23 May 2022

<sup>8</sup> OFAC may authorize certain categories of activities and transactions that would otherwise be prohibited under a sanctions program by issuing a general license. OFAC may also authorize transactions that are neither exempt nor covered by a general license by issuing a specific license on a case-by-case basis and under certain limited situations and conditions. While general licenses are provided and published by OFAC, specific licenses must be sought through a written request filed with OFAC's Licensing Division. (United States Department of the Treasury – Office of Foreign Asset Control, *Ukraine/Russia-related Sanctions Program* <[https://home.treasury.gov/system/files/126/ukraine\\_overview\\_of\\_sanctions.pdf](https://home.treasury.gov/system/files/126/ukraine_overview_of_sanctions.pdf)> accessed 23 May 2022; United States Department of the Treasury, *Financial Sanctions FAQs* <<https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1501>> accessed 23 May 2022)

<sup>9</sup> United States Department of the Treasury – Office of Foreign Asset Control, *Ukraine/Russia-related Sanctions Program* <[https://home.treasury.gov/system/files/126/ukraine\\_overview\\_of\\_sanctions.pdf](https://home.treasury.gov/system/files/126/ukraine_overview_of_sanctions.pdf)> accessed 23 May 2022; United States Code of Federal Regulations, Title 31, Subtitle B, Chapter V, Appendix A to Part 501, Economic Sanctions Enforcement Guidelines

## What can SMEs do?

Doing business in the midst of a constantly changing and expanding sanctions landscape presents a major compliance challenge, and one that SMEs should take seriously. Taking steps to comply with sanctions policies not only guards against any potential breaches, but may also be considered as mitigating factors in the assessment of penalties in case of an actual violation.<sup>10</sup>

### Risk assessment

To the extent practicable, create and maintain an up-to-date list of all the territories (e.g., where the business operates, shipping routes, product sources and destinations), as well as of all the goods, services, technology and business partners (e.g., clients, service providers, vendors) involved in your operations to help you understand and identify potential vulnerabilities.

### Due diligence

Once you have identified potential exposures in your business operations, routinely conduct due diligence by screening them against sanctions lists. Given that sanctions policies constantly change, it is advisable to stay current with sanctions lists. Take advantage of various online resources that will enable you to monitor sanctions as they are added or register for email notifications about changing sanctions programmes (e.g., the Email Notification System of the Office of Foreign Assets Control, short OFAC). Below is a non-exhaustive list of helpful resources, but make sure to check against the sanctions lists in all of the jurisdictions in which you may have a business nexus.

- OFAC sources:
  - [Sanctions search](#)
  - [Consolidated sanctions list](#)
- EU sources:
  - [Sanctions map](#)
- UK sources:
  - [UK sanctions list](#)
  - [Office of Financial Sanctions Implementation](#)
- UN sources:
  - Security Council, [Consolidated list search](#)
- Sources on Russia sanctions:
  - Correctiv, [Sanctions tracker](#)
  - Castellum, [Sanctions dashboard](#)
  - Al Jazeera, [List of sanctions on Russia after invasion](#)

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<sup>10</sup> United States Code of Federal Regulations, Title 31, Subtitle B, Chapter V, Appendix A to Part 501, Economic Sanctions Enforcement Guidelines

## Sanctions compliance policy

Establish a basic sanctions compliance policy that would set out clear protocols with respect to five key areas: (i) management commitment; (ii) risk assessment; (iii) internal controls; (iv) audit; and (v) training.<sup>11</sup> Several regulators have issued helpful guidelines on this matter, including the following:

- US Department of the Treasury, [A Framework for OFAC Compliance Commitments](#)
- US Department of Justice, [Evaluation of Corporate Compliance Programs](#) (on compliance programmes more generally)
- UK Office of Financial Sanctions Implementation, [Financial sanctions: general guidance](#)
- UK Financial Conduct Authority, [Financial Crime Guide](#) (as part of the [FCA Handbook](#))
- EU Commission, [Recommendation 2019/1318](#) of 30 July 2019 on internal compliance programmes for dual-use trade controls under Council Regulation (EC) No. 428/2009

## Internal investigation and self-reporting

If a potential violation is identified, take active steps to investigate and consider self-reporting. Disclosures of such kind are encouraged and may be considered as mitigating.<sup>12</sup>

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<sup>11</sup> See United States Department of the Treasury, *A Framework for OFAC Compliance Commitments* <[https://home.treasury.gov/system/files/126/framework\\_ofac\\_cc.pdf](https://home.treasury.gov/system/files/126/framework_ofac_cc.pdf)> accessed 24 May 2022; Zia Ullah and Victoria Turner, 'Principled Guide to Sanctions Compliance Programs' (*Global Investigations Review*, 8 July 2022) <<https://globalinvestigationsreview.com/guide/the-guide-sanctions/third-edition/article/principled-guide-sanctions-compliance-programmes>> accessed 14 September 2022

<sup>12</sup> United States Code of Federal Regulations, Title 31, Subtitle B, Chapter V, Appendix A to Part 501, Economic Sanctions Enforcement Guidelines