

# 10 FINANCIAL SANCTIONS

## 10.1 WHAT ARE FINANCIAL SANCTIONS?

Financial sanctions are orders which prevent firms from dealing with individuals or organisations who can be linked to the financing of terrorism. They are issued by international bodies such as the United Nations and the European Union as well as by individual jurisdictions. This is not an area where risk-based regulation applies. The goals of the rules are clear – these are people and organisations that a firm should not deal with.

Individuals or organisations linked with the financing of terrorism or nuclear proliferation are known as “targets” and will be specifically referred to. This is an approach which operates within the international community through the provision of lists, as well as through individual governments acting unilaterally. For example, it is an offence under UK law to provide funds to those on the international list unless, in the case of financial institutions, a licence is obtained from Her Majesty’s Treasury. Financial sanctions are mostly focused on international targets, and currently there are around 50 UK individuals and entities on the HM Treasury sanctions lists.

## 10.2 FAILING TO COMPLY

Firms which allow individuals connected with financing terrorism to maintain accounts or undertake transactions with them risk criminal penalties. In this case, the penalties would be enforced by the jurisdictional legal services against the firm, and in some cases also against the management directly. The legal consequences of failing to comply with the orders can be substantial.

In the US, the US Department of Justice levied fines on Lloyds of \$350 million for breaches of US sanctions against Iran and Sudan on 9th January, 2009. In this case, more than \$350 million moved from places such as Iran through locations around the world because Lloyds removed relevant stripped identifying information from international wire transfers that would have raised a red flag at US financial institutions and caused such payments to be scrutinised, according to the Department of Justice. This was, at that time, the largest ever penalty under US sanctions legislation.

The Department of Justice press release stated:

*“Under the IEEPA, it is a crime to wilfully violate, or attempt to violate, any regulation issued under the Act, including the Iranian Transactions Regulations, which prohibit exportation of services*

*from the United States to Iran, and the Sudanese Sanctions Regulations, which prohibit exportation of services from the United States to Sudan.”*

Clearly, in this case there was the allegation that the firm was deliberately seeking to take action to enable inappropriate persons or firms to be assisted with their illegal activity. However, generally there are problems that need to be addressed. Of course, the costs to the firm greatly exceed the size of the penalty. In this case they would also include improving training, investigating thousands of transactions and changing systems and controls to meet regulatory expectations.

Aside from the financial penalties for firms, the reputational risk that a firm will suffer from being associated with the funding of terrorism will potentially be immense. Clearly, therefore, any firm needs to implement full and complete policies, processes, procedures and training to alert staff to these issues and minimise the risks as far as is possible.

### 10.3 SANCTIONS LISTS

Lists of targets with which firms must avoid dealings are generally published within individual jurisdictions, and in the UK can be found at HM Treasury’s website at <http://www.hm-treasury.gov.uk/d/sanctionsconlist.pdf>

For each organisation listed, specific details of individuals associated with the organisation are set out in reasonable detail, the following being a historic example:

**Name:** BIN LADEN 1: USAMA 2: MUHAMMED 3: AWAD 4: n/a 5: n/a.

**Title:** Shaykh/Hajj

**DOB:** (1) 28/07/1957. (2) 30/07/1957. (3) 10/03/1957. (4) 01/01/1957. (5) --/--/1956. (6) --/--/1957.

**POB:** (1) – (2) Jeddah, (1) Yemen (2) Saudi Arabia

**a.k.a:** (1) ABD AL-HAKIM, Abu Abdallah (2) AWDH, Bin Laden, Osama, Mohamed (3) BIN LADEN, Usama (4) BIN LADIN, Osama (5) BIN LADIN, Osama, bin Muhammad, bin Awad (6) BIN LADIN, Shaykh, Usama (7) BIN LADIN, Usama (8) BIN LADIN, Usama, bin Muhammad, bin Awad (9) BIN LADIN, Usamah, Bin Muhammad (10) BIN MUHAMMAD, Bin Laden, Usamah (11) OSAMA, Ben Laden (12) OSSAMA, Ben Laden (13) USAMA, Ben Laden (14) USAMA BIN MUHAMMED BIN AWAD, Osama Bin Laden.

**Other information:** UN Ref QI.B.8.01. Saudi citizenship withdrawn. Afghan nationality given by the Taliban regime. Also referred to as Al Qaqa. Confirmed to have died in Pakistan in May 2011. Listed on: 23/02/2001. Last updated: 19/05/2011 Group ID: 6896.

The list literally goes from A to Z over 74 pages, or from Al-Qaida to:

**Organisation name:** ZIMBABWE MINING DEVELOPMENT CORPORATION

**Address:** 90 Mutare Road, PO Box 2628, Harare, Zimbabwe.

**Other information:** Associated with the ZANU-PF faction of Government. ZMDC falls under the responsibility of ZANU-PF Minister of Mines and Mining Development. Listed on: 27/01/2009. Last updated: 23/02/2012 Group ID: 10744.

A consolidated list of asset-freeze targets designated by the United Nations, European Union and United Kingdom under legislation relating to current financial sanctions regimes is available below. This list denotes the “regimes”, which include organisations and jurisdictions. Each “regime” has associated individuals, in the same format as the Osama Bin Laden example above, which can be found on the website. The list of “regimes”, as of July 2013, is as follows:

- Afghanistan
- Belarus
- Democratic Republic of the Congo
- Egypt
- Eritrea
- Federal Republic of Yugoslavia and Serbia
- Iran (Human Rights)
- Iran (Nuclear Proliferation)
- Iraq
- Ivory Coast
- Lebanon and Syria
- Liberia
- Libya
- North Korea (Democratic People’s Republic of Korea)
- Republic of Guinea
- Republic of Guinea-Bissau
- Somalia
- Sudan
- Syria
- Tunisia
- Zimbabwe.

These rules do regularly change and firms move on and off the list. In the UK, for example, on 24th December, 2012, HM Treasury issued a financial sanctions notice on Iran regarding nuclear proliferation. The changes take the form of the addition of one individual and 18 entities to Annex IX to the 2012 Regulation, the removal of two entities from Annex IX and amendments to the identifying information of three existing entries in Annex IX.

The following were among those identified specifically in this notice ([http://www.hm-treasury.gov.uk/d/fin\\_sanc\\_notice\\_iran\\_cir\\_241212.pdf](http://www.hm-treasury.gov.uk/d/fin_sanc_notice_iran_cir_241212.pdf)).

### 10.3.1 *Individuals*

**Name:** ZANJANI, Babak

**DOB:** 12/03/1971

**Other information:** EU listing. Not UN. Key facilitator for Iranian oil deals and transferring oil-related money. Zanjani owns and operates the UAE-based Sorinet Group, and some of its companies are used by Zanjani to channel oil-related payments.

**Group ID:** 12824.

As you will note, many of the other bodies specifically identified in the notice are related to Mr Zanjani. On 23rd December, 2012 he issued a statement that denied any wrongdoing, saying his bank and other companies did not work for the Iranian government.

From the point of view of the firm, it must take note of the notice and not deal with the person. It is for the person to manage to get their name removed from the list, not for the firm to take a risk-based or value judgment. Whether the person is innocent or guilty is, with regret, of limited consequence to a firm. It is required to comply with the rules and that is the end of the matter. Consequently, firms need to have a system in place which allows them to update their records as the lists change to ensure that they are compliant.

### 10.3.2 *Entities*

**Name:** ALUMINAT

**Address:** (1) Parcham St, 13th Km of Qom Rd, 38135, Arak. (2) Unit 38, 5th Fl, Bldg No 60, Golfam St, Jordan, 19395-5716, Tehran, Iran.

**Other information:** EU listing. Not UN. Tel: 98 212049216/98 22049928/98 22045237. Fax: 98 21 22057127. Website: [www.aluminat.com](http://www.aluminat.com)

**Group ID:** 12820.

This example highlights the care that needs to be taken. There is another firm named Nordisk Aluminat A/S, which is a legitimate Danish company established in 1981. It has a different website ([www.aluminat.dk](http://www.aluminat.dk)) and is not implicated in any way by this sanctions report. The financial institution needs to ensure that the sanctions are applied to precisely the right person in this regard and do not adversely affect a firm which has a similar name. No bank can assume that such firms are connected.

**Name:** CF SHARP AND COMPANY PRIVATE LIMITED

**Other information:** EU listing. Not UN.

**Group ID:** 12835.

In this case very little information is provided to assist the financial institution; we are not even provided with an address in Tehran. This is not to be mixed up with CF Sharp Group ([www.cfsharp.com](http://www.cfsharp.com)), which, again, is a legitimate business and a leader in the fields of crewing, travel, freight forwarding, brokerage, air cargo, airline GSA, land-based recruiting and training.

**Name:** FIRST ISLAMIC INVESTMENT BANK (FIIB)

**Address:** (1) 19A-31-3A, Level 31 Business Suite, Wisma UOA, Jalan Pinang 50450, Kuala Lumpur, Wilayah Persekutuan. (2) Investor Relations, Menara Prima 17th floor Jalan Lingkar, Mega Kuningan Blok 6.2, South Jakarta, Jakarta, Indonesia, 12950. (3) Unit 13 (C), Main Office Tower, Financial Park Labuan Complex, Jalan Merdeka, 87000 Federal Territory of Labuan, Labuan F.T; 87000, Malaysia.

**Other information:** EU listing. Not UN. Tel: 603 21620361/603 21620362/603 21620363/603 21620364/6087417049/6087417050/622157948110. FIIB is part of the Sorinet Group owned and operated by Babak Zanjani. It is being used to channel Iranian oil-related payments.

**Group ID:** 12825.

This case directly links to the individual identified in the first reference. Notice the bank operates in Malaysia and Indonesia and is on the list due to its ownership. This highlights the importance of following these rules rigorously. The Malaysian bank appears on a UK list because it is owned by a Group (Sorinet) which is owned and operated by a person on the list (Babak Zanjani).

**Name:** HONG KONG INTERTRADE COMPANY LTD (HKICO)

**Address:** Hong Kong

**Other information:** EU listing. Not UN. HKICO is a front company controlled by EU-designated National Iranian Oil Company (NIOC).

**Group ID:** 12822.

**Name:** MOALLEM INSURANCE COMPANY (MIC)

**a.k.a:** (1) Export and Investment Insurance Co. (2) Moallem Insurance (3) Moallem Insurance Co.

**Address:** (1) No. 56 Haghani Boulevard, Vanak Square, Tehran, 1517973511, Iran, PO Box 19395-6314. (2) 11/1 Sharif Ave, Vanaq Square, Tehran, 19699, Iran.

**Other information:** EU listing. Not UN. Tel: 98 21886776789/98 21887950512/98 21887791835. Fax: 98 2188771245. Website: www.mic-ir.com. Main insurer of IRISL.

**Group ID:** 12836.

**Name:** ORGANISATION OF DEFENSIVE INNOVATION AND RESEARCH (SPND)

**Other information:** EU listing. Not UN. Run by UN-designated Mohsen Fakhrizadeh and is part of the Ministry of Defence For Armed Forces Logistics (MODAFL). SPND's head of security is Davoud Babaei.

**Group ID:** 12821.

**Name:** PETRO SUISSE

**Address:** Avenue De la Tour-Halimand 6, 1009 Pully, Switzerland.

**Other information:** EU listing. Not UN. Assisting designated entities to violate the provisions of the EU Regulation on Iran.

**Group ID:** 12823.

Here you have a firm based in Switzerland directly implicated in sanctions violations.

**Name:** SHARIF UNIVERSITY OF TECHNOLOGY

**Address:** Azadi Ave, 11365-8639, Tehran, Iran.

**Other information:** EU listing. Not UN. Tel: 98 21 66022727. Fax: 98 2166036005. Website: www.sharif.ir. Assisting designated entities to violate the provisions of the EU Regulation on Iran.

**Group ID:** 12816.

You would generally not expect to see universities on such lists, so this example proves that any form of firm could be implicated and therefore included.

**Name:** SIMATEC DEVELOPMENT COMPANY

**Other information:** EU listing. Not UN. Assisting designated entities to violate the provisions of UN and EU sanctions on Iran. As of early 2010, Simatec was contracted by UN-designated Kalaye Electric Company (KEC) to procure Vacon inverters to power uranium enrichment centrifuges. As of mid-2012, Simatec was attempting to procure EU-controlled inverters.

**Group ID:** 12819.

In this example, the notice does provide a significant amount of additional information to explain, in some ways, why the firm appears on the list.

The issue for any bank is to ensure that it is receiving complete and accurate lists to apply in practice. If a money-laundering-deterrence solution is acquired by the firm, it will generally include such updating automatically. However, it is the bank that needs to ensure this.

#### 10.4 ASSET FREEZING UNIT

Financial sanctions can be imposed by an independent body, or a subsidiary body of a larger financial government organisation. For example, as discussed in the UK, financial sanctions are actually imposed by the Treasury's Asset Freezing Unit (AFU). The AFU is responsible for the implementation and administration of domestic financial sanctions, for domestic designations under the Terrorist Asset-Freezing etc. Act 2010, for providing advice to Treasury Ministers on the basis of operational advice, on domestic designation decisions and for carrying out various other duties with regard to the implementation and administration of financial sanctions.

The AFU also issues notices and notifications advising of the introduction, amendment, suspension or lifting of financial sanctions regimes with a view to making bodies and individuals likely to be affected by financial sanctions aware of their obligations, and provides, on the financial sanctions home page of the Treasury website, a consolidated list of financial sanctions targets which consists of the names of individuals and entities that have been listed by the United Nations, European Union and/or the United Kingdom under legislation relating to a specific financial sanctions regime. Where there is a legal basis for an asset freeze in the UK, the name of the target will be included in the consolidated list.

In the event that a customer is found to be on a financial sanctions list, the obligation is on the firm to stop providing services or products to the target immediately and then to contact HM Treasury's Asset Freezing Unit.

These UK lists will potentially prove of assistance to any firms in designing procedures to identify what might be considered the highest risk customers. Of course, such firms, organisations and individuals regularly change their identities and so the historic nature of such information must always be a concern to a firm. However, any financial

institution would be expected to have identified and acted upon what is, in effect, a public analysis of areas of concern. When this is combined with the information promulgated by Transparency International, it will prove to be of assistance if a firm is undertaking scenario modelling or is in the process of developing a risk-based approach.

### 10.5 COMPLIANCE WITH FINANCIAL SANCTIONS

Firms must ensure that they develop policies and procedures to ensure compliance with local financial sanctions legislation and guidance. In order to ensure compliance with financial sanctions regulations, the following actions are recommended:

- A firm should undertake and regularly review risk assessments, especially on clients involved in either the weapons or components industries, together with market counterparties from certain specified higher risk jurisdictions.
- A firm should also establish and regularly review a clear counter-terrorist-financing policy which has been tailored to its business profile.
- A firm should develop appropriate operating procedures which should be regularly reviewed and amended to ensure that they remain appropriate for the firm and are consistent with the policies and goals of the firm.
- Financial sanctions awareness and the importance of these rules should be included within training and awareness programmes for all staff to enable them to understand both their personal and their corporate obligations.
- Specific additional procedures should be implemented to address new and transferred clients or counterparties where these originate from high-risk countries.
- Generally, firms should evaluate the source and origin of funds, together with country risk leading to identification of high-priority relationships that should be subject to enhanced due diligence and monitoring as part of the implementation of the risk-based approach.

### 10.6 FINANCIAL SANCTIONS AS PART OF NORMAL MONEY-LAUNDERING-DETERRENCE PROCEDURES

In some firms, financial sanctions may not currently be checked as part of the existing anti-money-laundering procedures implemented as part of a general deterrence regime. Unlike the risk-based processes and procedures which are generally appropriate for money-laundering deterrence, the financial sanctions rules are different. In this case, the financial sanctions lists must be checked prior to carrying out any transaction and this is not dependent on the threshold amount of the transaction concerned. It is the nature of the transaction which breaches the rules, not its size.

Furthermore, while politically exposed persons form part of normal money-laundering-deterrence regulation, that monitoring should not be considered as being similar to monitoring for compliance with financial sanctions. The main difference here is that PEPs are classified as anyone who is, or is associated with, a high-profile political position, as discussed in Chapter 17. Being a PEP does not mean the person is guilty of



money laundering or other illegal activity, rather it implies that enhanced due diligence should be conducted.

Financial sanctions are usually focused on targets known in the world of financial crime because of their illegal activities, which include the financing of terrorism and nuclear proliferation. As such, targets on these lists are aware that they are on a sanctions list, which is public. Since this is, therefore, public information, there can be no equivalent offence of “tipping off”. The regulated firm needs to know whether it is dealing with such people and act accordingly – there is no choice in such cases.

### 10.7 DIFFICULTIES FACED BY FIRMS WHEN MONITORING FINANCIAL SANCTIONS

Firms which fail to have in place procedures, systems and controls to monitor financial sanctions can face heavy financial penalties as a result of either misconceptions or a general lack of understanding exhibited by their staff. It is vital for firms to remember that financial sanctions require additional attention, and are not monitored as part of general money-laundering-deterrence systems and controls. Some of the common misconceptions which firms have regarding financial sanctions are summarised below. Where a single jurisdiction is used, we have directly referred to the UK, whereas for international readers, you should have reference to the sanctions list promulgated locally by your relevant authority.

1. It is important to remember that financial sanctions apply to all firms, and not just banks or financial institutions.
2. Firms also have a common misconception that if they process only low-value transactions they are not subject to financial sanctions requirements. Remember that the targets on financial sanctions lists are on those lists irrespective of any financial limits.
3. There is a wide range of targets typically on such lists. In the UK, the list includes both UK-based targets and international targets. As demonstrated above, a UK firm, for example, cannot assume that all targets are only UK-based.
4. Financial sanctions regulations will apply to firms even if they do not hold client money.
5. The offence of “tipping off” is not an issue, since those on the sanctions list already know they are on the list, so at least that is one less thing to worry about.
6. Politically exposed persons (or PEPs) are not the same as sanctions targets, but some PEPs may also be on the sanctions list.
7. Financial sanctions regulations also apply to insurance companies.
8. Typical money-laundering-deterrence due diligence monitoring requirements are not the same as sanctions list screening, but they may be closely linked.
9. Sanctions compliance is a completely discrete legal regime and does not adopt a risk-based approach.

10. Sanctions checks carried out by third parties can only be relied on when the accepting firm has verified that the referring firm has completed recent sanctions screening.

So, for a firm operating in any jurisdiction, the obligation is to understand and comply with its local financial sanctions, both in its home country and in any host countries where it operates branches or subsidiaries. In most countries, ignorance of the fact that a person is on the sanctions list is not sufficient to avoid prosecution for the offence of assisting terrorist financing.