UK Introduces Global Anti-Corruption Sanctions Regime

28 April 2021

On 26 April 2021, the United Kingdom implemented a new sanctions regime that allows the UK government to impose asset freezes on public officials and other persons involved in serious corruption. The regime replaces, and expands, the Misappropriation of State Funds sanctions regime that the United Kingdom implemented in January 2021. The restrictions have initially targeted 22 persons from Russia, South Africa, Guatemala, South Sudan and Honduras.

The sanctions regime gives the UK authorities an additional tool in their arsenal, which, along with legislation such as the UK Bribery Act 2010 ("UKBA") and the Proceeds of Crime Act 2002 ("POCA"), can be used to combat extraterritorial corruption. It also brings UK sanctions regimes into closer alignment with the "Magnitsky"-style sanctions previously implemented by the United States and Canada and could foreshadow a greater appetite by the UK government to align with U.S. sanctions policy.

Companies operating in the UK should ensure that their sanctions systems and controls reflect this new regime and that information obtained through sanctions screening is appropriately considered when assessing anti-bribery and corruption risks relating to a particular transaction.

The UK Global Anti-Corruption Sanctions Regime. The new global anti-corruption sanctions regime is set out in the Global Anti-Corruption Sanctions Regulations 2021 (the "Regulations"). The Regulations permit the UK government to impose asset freezes and travel bans on individuals and entities determined to have committed, or to have been involved in, serious corruption—specifically, bribing, or misappropriating property from, a foreign public official or benefitting from such bribery or misappropriation. The regime has been introduced as part of the UK government's objective to tackle international corruption, as set out in the UK Anti-Corruption Strategy 2017–2022.

Prior to the Regulations, the UK operated two similar thematic sanctions regimes: a Global Human Rights Regime, which targeted individuals and entities involved in human rights abuses, and a Misappropriation of State Assets regime, which targeted

individuals and entities specifically involved with misappropriating state-owned assets.[1] While these regimes had some overlap with the Regulations, they did not allow the UK to impose restrictions on individuals or entities solely for involvement in bribery.

The United Kingdom had previously been criticised for omitting acts of corruption from the scope of its sanctions legislation, and in particular from the Global Human Rights sanctions regime, given the widely publicised links between endemic corruption and global human rights abuses.[2] By introducing sanctions targeted at bribery, the UK is increasingly aligning itself with the full scope of the "Magnitsky"-style sanctions implemented by the United States and Canada.

Currently, 22 persons have been listed under the Regulations:

- 14 Russian nationals said to have been involved in the misappropriation of $230 million of Russian state funds through a fraudulent tax refund scheme uncovered by Sergei Magnitsky;
- Three members of the Gupta family and one of their business associates, reportedly involved in a long-running corruption scheme in South Africa that has caused "*significant damage to [the country's] economy*";
- One Sudanese national allegedly involved in the misappropriation of significant amounts of state assets from the South Sudan government; and
- Three individuals in Guatemala, Nicaragua and Honduras, respectively, who are claimed to have been involved in serious corruption in Latin America, including facilitating bribes to support a major drug trafficking organisation and misappropriating state funds.

A Move Away from EU Sanctions Alignment. The Regulations appear to reflect an increasing willingness by the UK to align itself with the US and Canada. When discussing the draft Regulations in Parliament, the UK government acknowledged that it "*will continue to work with [its] friends and partners, including the US and Canada*" when implementing and enforcing corruption-related sanctions. Furthermore, the UK announced that the introduction of the Regulations was taken in coordination with the US, which also announced corruption-related restrictive measures on the same day. It is also notable that all 22 individuals targeted by the Regulations have previously been

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1 For further information on these regimes, see: https://www.debevoise.com/insights/publications/2020/07/uk-introduces-magnitsky

2 The European Union faced similar criticism for its global human rights sanctions regime, implemented in December 2020, which also does not cover acts of corruption. It remains to be seen whether the European Union will also amend its regime.

sanctioned under the U.S. Global Magnitsky regime. Now that the UK has fully withdrawn from the EU, it may take additional steps to align itself more closely with non-EU allies, such as the US and Canada, in the future.

A Dual Approach to Corruption Enforcement in the UK. The Regulations will help strengthen the UK's approach to corruption enforcement and compliment the criminal offences contained in the UKBA and the POCA. The Regulations provide the UK government with an option to censure and penalise individuals involved in extraterritorial corruption without having to pursue a prosecution in the courts. This can allow the UK government to penalise foreign public officials implicated in bribery who would otherwise fall outside of UK criminal law jurisdiction. Similarly, it could result in individuals and entities facing a "double jeopardy" of sorts under the UKBA and the Regulations if they bribe someone sanctioned under the Regulations.

There are differences in the scope of the UKBA and the POCA on the one hand and the Regulations on the other that reflect the different aims of these regimes. In particular, the Regulations can be used only to sanction individuals or entities that bribe, or misappropriate property from, public officials. This is in contrast with the UKBA, which criminalises bribery of both public and private individuals. The UK government has acknowledged that the individuals who are "*facilitating or profiting from corrupt acts [are not] limited to state officials*", but this limitation in the Regulations is likely a reflection of the UK government's intention to use sanctions only for the most egregious examples of public bribery and corruption.

Key Takeaways. Businesses operating in the UK may need to amend their sanctions systems and controls to ensure that they are compliant with the Regulations, particularly because these Regulations reflect a divergence between EU and UK sanctions. In addition to screening against UK sanctions lists, businesses will need to ensure that they are able to respond to the broad range of persons and entities caught by UK asset freezes, which includes entities owned or controlled by sanctioned persons.

Furthermore, businesses should ensure that their anti-bribery and corruption as well as sanctions screening procedures are appropriately amalgamated given the increasing overlap between the two areas. In particular, the results of sanctions screening may flag related anti-bribery and corruption risks that businesses should investigate.

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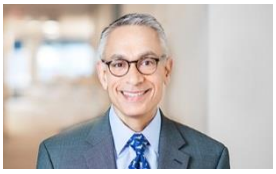

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