Higher Education and Financial Sanctions Regulations

The purpose of this note is to provide a briefing on sanctions regulations and how they relate to the HE sector’s financial interactions with countries or regions under sanction. More specifically, it is designed to create awareness of the implications of sanctions and how dealings with certain nations might impact on individual institutions’ other stakeholders, such as financial services providers.

The Office of Financial Sanctions Implementation (OFSI), part of the HM Treasury, is the body responsible for the implementation of financial sanctions. The Foreign Office and Department for Business, Energy and Industrial Strategy (BEIS) are also involved with negotiations and implementation of trade sanctions respectively.

What are financial sanctions?

OFSI define financial sanctions as ‘restrictions put in place that limit the provision of certain financial services or restrict access to financial markets, funds and economic resources in order to achieve a specific foreign policy or national security objective.’

Most financial sanctions applicable in the UK are made via EU regulations (some come via the UN to the EU). This means, at present, they have direct legal impact in UK law. This arrangement will no doubt be reviewed as part of terms around the UK’s exit from the EU.


Certain U.S. regulations have extra-territorial reach (“Secondary Sanctions”) and, importantly, all US persons, wherever resident always have a primary obligation to comply with U.S. Sanctions Regulations. Consequently, it is advisable for HEIs to ensure that there are sufficient processes in place that enable US persons to recuse themselves from any strategic decisions (e.g. plan to increase student recruitment from regions subject to sanctions) or direct involvement or activity with sanctioned countries/regions (e.g. payment processing, research partnerships or alliances with institutions, etc.) that is not either generally or specifically licensed. This may also extend to US goods, such as research material that has been produced in the US but which could potentially be prohibited by US sanctions from being provided to certain countries/regions.
How do they work?

Sanctions are imposed to:

- Coerce a regime or individual to change behaviour by increasing the cost to such an extent that they cease the offending behaviour;
- Constrain a target by denying them access to resources required to continue their offending behaviour;
- Signal disapproval;
- Protect the value of assets that have been embezzled.

Sanctions can be applied to:

- Individuals ‘designated person’ and Entities – included on a list maintained by OFSI;
- Countries/regions – highlighted on OFSI’s website and include Syria, North Korea and Sudan;
- Governments/regimes
- Sectors or activities – would refer to, for example, terrorism, and drug-trafficking.

Financial sanctions are imposed as:

- An asset freeze - an asset can refer to funds, economic resources or goods;
- Financial market and service restrictions – by the authority of OFSI;
- Directions to cease all business.

What are the consequences?

OFSI are able to issue licences to allow for future transactions to take place which would otherwise be prohibited under asset freezes. Grounds for the issuing of licences are considered on a case by case basis.

A breach of OFSI requirements may result in a criminal prosecution or a monetary penalty. OFSI will normally publish summary details of penalty cases, to deter non-compliance and support compliance best practice.

It is important to understand the global reach of U.S. Sanctions in respect of the global nature of operations. The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals. U.S. persons must comply with OFAC regulations, including all U.S. citizens and permanent residents regardless of where they are located, all persons and entities within the United States, all U.S. incorporated entities and their foreign branches.
**Higher Education Institutions**

All UK individuals and businesses must comply with financial sanctions requirements. The prohibitions apply whether dealing with targets directly or through an intermediary including a lawyer or accountant. In these circumstances, the intermediary (acting within the UK) is also in scope.

Financial sanctions are constantly changing, it is therefore vital institutions remain abreast of these changes. OFSI believes that any business or organisation that operates in an international context should remain up to date on financial sanctions and take appropriate steps to mitigate against breaching sanctions in their activities.

The scope of the regulations may apply to a wide range of activities undertaken by HE institutions. These may include, but are not restricted to:

- Receiving student fees from ‘designated’ individuals, entities or countries/regions;
- Engaging with contractors or suppliers who are ‘designated’ or from sanctioned countries/regions;
- Research activity and collaborations with partners in sanctioned countries/regions or with ‘designated’ individuals.

The restrictions which apply to sending or receiving monies to or from entities and individuals located within such countries/regions may place additional obligations upon the financial service provider (“FSP”) who supports them in the processing of such payments.

Given the divergence between existing sanctions regimes issued by various authorities, and the complexity of navigating their applicability across multiple jurisdictions (especially when supporting customers engaging in multi-currency, international payments), it is important to note that many financial services providers are likely to maintain specific controls frameworks of their own in relation to sanctioned and high-risk countries/regions – including, but not limited to, potential restrictions on the types of business activity they may wish to facilitate on behalf of HEIs. In some instances, this may impact payments HEIs wish to make or receive. Financial services providers may adopt a position that is more restrictive than the legal/regulatory requirements.

It would therefore be advisable for HEIs to discuss this area with their key stakeholders, particularly their banks, financial services providers and other lenders to provide assurance and demonstrate compliance with Sanctions regulation. In all instances, it is recommended that HEIs work collaboratively with their financial services providers to mitigate any potential detrimental impact to them or students.

Aside from Financial Sanctions, a number of other broader Financial Crime risks apply to certain jurisdictions from which HEIs may recruit students, or undertake business activity – for example, activity with research partners, etc. Also, relevant are obligations under anti-money laundering and counter terrorist financing.

HEIs should develop systems which enable them to evaluate the risks associated with sanctions regulations and their operations. It should also consider the capture and, if necessary, the retention of relevant information on individuals and on transactions so as to provide continual and proportional assurance against this risk.
Useful Links

- Maya Lester QC - Sanctions Blog (https://europeansanctions.com/)
- FATF http://www.fatf-gafi.org/countries/#high-risk
  http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc(fatf_releasedate)