

## SANCTIONS: FREQUENTLY ASKED QUESTIONS

The Policy & Resources Committee has published the information on this page as general guidance to the Guernsey sanctions regime and it is provided on the basis that its views are not determinative of questions of law. It is recommended that, where necessary, independent legal advice is sought.

General information about the implementation of Guernsey's sanction regime is provided at:

[www.gov.gg/sanctions](http://www.gov.gg/sanctions).

A list of current sanctions measures in place is available at:

[www.gov.gg/sanctionsmeasures](http://www.gov.gg/sanctionsmeasures).

### **1. How does the Bailiwick implement international sanctions?**

Historically, United Nations Sanctions measures have been implemented by an Order in Council under the United Nations Act 1946 or, more commonly, by an Ordinance under the European Communities (Implementation) (Bailiwick of Guernsey) Law 1994 which provides that a particular EU Regulation imposing sanctions (including both UN measures and autonomous EU measures) is to be treated as part of domestic law. These processes have now been replaced by a power for the Policy & Resources Committee to implement sanctions measures by regulations under the Sanctions (Bailiwick of Guernsey) Law, 2018. This power has been exercised to enact the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020 (the 2020 regulations). The 2020 regulations give effect to all sanctions regimes that have been enacted by the UK as a result of Brexit, and repeal legislation that previously gave effect in the Bailiwick to EU sanctions measures. The UK sanctions regimes that have been implemented by the 2020 regulations comprise both autonomous UK regimes and regimes that the UK has enacted to implement UN sanctions measures.

Sanctions relating to export and import controls are implemented by an Order made under the Export Control (Bailiwick of Guernsey) Law 2006. The Bailiwick may also exceptionally enact primary legislation to implement sanctions, such as the Terrorist Asset Freezing (Bailiwick of Guernsey) Law 2011.

## **2. Where can I find a list of financial sanctions targets?**

A consolidated list of financial sanctions targets can be found on the **HM Treasury website**. The consolidated list is updated regularly as financial sanctions are put in place. A guide to the list can also be found on the website.

**Please note that the nationality and residence of customers is an important part of the due diligence process and becomes particularly relevant if there is reason to believe that a customer has links to a sanctioned country.**

## **3. What is a licence?**

A licence is written permission from a named licensing authority to carry out an activity which would otherwise be prohibited.

Under the 2020 regulations, the Bailiwick licensing authority is the States of Guernsey Policy & Resources Committee for asset freezing measures. The Policy & Resources Committee is also the licensing authority under the Terrorist Asset - Freezing (Bailiwick of Guernsey) Law. The Committee for Home Affairs, through the Guernsey Border Agency, is the competent authority for any import or export licensing matters, whether under export control legislation or under the 2020 regulations.

Any individual or institution who wishes to make an application for a licence is advised to contact the Regulatory and Financial Crime Policy Team of the Policy & Resources Committee in the first instance.

## **4. I have found a sanctions target. What information do I need to report and how?**

The basic information the Policy & Resources Committee should be provided with is:

- The information that has led someone to believe the individual, entity or body is a sanctions target.
- Any information the business holds through which the target can be identified, e.g. passport documentation.
- The nature and amount or quantity of any funds or economic resources held by the business for the sanctions target.

If the business has a name match, the business should carry out enquiries assessing its Know Your Client information against details available on the consolidated list (which can be accessed on the HM Treasury website). If, after assessing all available information, a business is unable to determine whether a customer is a sanctions target, it should contact the Regulatory and Financial Crime Policy Team of the Policy & Resources Committee with the relevant information regarding the individual.

**5. Is there any obligation to report information in relation to sanctions to the Policy & Resources Committee?**

Under the Sanctions (Bailiwick of Guernsey) Law, 2018, relevant institutions (financial services businesses, lawyers, accountants, estate agents, dealers in high value goods and eCasinos) are subject to a reporting obligation that applies to every sanctions regime. They are also subject to a corresponding reporting obligation in respect of terrorist financing under the Terrorist Asset Freezing (Bailiwick of Guernsey) Law 2011. Information on these reporting obligations is provided in a separate guidance document that is available on the States of Guernsey website.

In addition, most UK sanctions regimes as implemented by the 2020 regulations contain an obligation to supply information to the Policy & Resources Committee or the Committee for Home Affairs, depending on the type of sanctions measure in question. Information on the reporting obligations applicable to individual sanctions regimes is available on the States of Guernsey website.

**6. Do I need to submit a financial disclosure as well as providing information to the Policy & Resources Committee or the Committee for Home Affairs?**

Holding an account for a sanctioned party or rejecting or processing a transaction (whether or not in breach of financial sanctions prohibitions) which involves a sanctioned party, is not in itself grounds for submitting a disclosure of suspicion of money laundering and/or terrorism financing to the Financial Intelligence Service under the Disclosure (Bailiwick of Guernsey) Law 2007 as amended and the Terrorism and Crime (Bailiwick of Guernsey) Law 2002 as amended.

However, if dealings involving a sanctioned party give rise to knowledge or suspicion that another person is engaged in money laundering or terrorist financing, or reasonable grounds for such knowledge or suspicion, a disclosure should be made in the form and manner prescribed by the Disclosure (Bailiwick of Guernsey) Regulations 2007 as amended and the Terrorism and Crime (Bailiwick of Guernsey) Regulations 2007 as amended. This is additional to the reporting obligations that may be in place under a particular sanctions regime, and in such cases a report must be made to both the Policy & Resources Committee (or the Committee for Home Affairs, as the case may be) and the Financial Intelligence Service.

**7. What should a company tell its customer in the event that the Policy & Resources Committee or the Committee for Home Affairs refuses to authorise a transaction? Does “tipping off” apply?**

If the Policy & Resources Committee or the Committee for Home Affairs refuses to authorise a transaction it will communicate this openly to the company requesting authorisation to carry out the transaction. There is no “tipping off” provision in the sanctions legislation. In such circumstances, the company is not legally obliged to discontinue its relationship with the customer; this would be a commercial decision for the business.

## **8. What are the penalties for contravening sanctions measures?**

Breaches of sanctions measures that have been implemented by regulations under the Sanctions (Bailiwick of Guernsey) Law 2018 are subject to criminal penalties set out in the Sanctions (Bailiwick of Guernsey) Law 2018 itself. The obligations under the Terrorist Asset Freezing (Bailiwick of Guernsey) Law 2011 and in Orders made under the Export Control legislation are subject to criminal penalties set out in those enactments. In general terms, any person guilty of contravening sanctions measures shall be liable on conviction to imprisonment and/or a fine.

Where a body corporate is guilty of an offence, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

## **9. Can the Bailiwick authorities request information from any person in or resident in the Bailiwick of Guernsey to facilitate compliance with sanctions legislation?**

There are information gathering powers in all types of sanctions legislation. The precise nature of those powers depends on the wording of the relevant enactment but in general terms, a named authority may request any person in or resident in the Bailiwick to furnish or produce any information or document in its possession or control which may be required for the purpose of ensuring compliance with the enactment in question. In addition, under the Sanctions (Bailiwick of Guernsey) Law 2018, the Policy & Resources Committee has information gathering powers which may be used for a wider range of purposes such as monitoring implementation of sanctions, assessing risks to the jurisdiction arising from links with sanctioned entities and making recommendations for listing to the UN.

A person to whom such a request is made must comply with it within such time and in such manner as may be specified in the request. All information gathering powers are underpinned by offences in respect of the failure to comply with a request and the furnishing of false information, as well as restrictions on the use to which the information may be put and protection against allegations of breach of confidence or similar claims.

## **10. Where a particular transaction has been licensed in another jurisdiction, do I need to seek a licence from the authorities in Guernsey?**

The Bailiwick's sanctions regime operates completely independently of that in other jurisdictions. Therefore, in all cases where a licence is required under Bailiwick law, this must be requested from the appropriate authority. However, under the UK sanctions regimes as implemented by the 2020 regulations, no licence will be required if the activity in question has already been licensed by an authority in the UK, in one of the other Crown Dependencies or in one of the Overseas Territories. In other cases, on receipt of proof from an applicant for a licence that the relevant transaction has been licensed by the competent authority of another jurisdiction, the Bailiwick authorities will usually grant an equivalent licence.