



Sanction screening and the Law.

Am I legal?

**Practical guidance:
interplay between The
Money Laundering and
Terrorist Financing
Regulations and The
Sanctions and Anti-Money
Laundering Act 2018 (and
related legislation).**

**The legal requirement to screen for financial
sanctions on an ongoing basis in the United
Kingdom.**

March 2023

Thematic review for regulated and unregulated industries.

This document is produced by Carezzo Law as a summary of the current obligations on all natural persons, body corporates and firms within the mainland and territorial waters of the United Kingdom as at March 2023. It is general in nature, and does not represent legal advice, upon which no reliance should be made. You should refer to specific up to date statutory and regulatory guidance, advice and case law. You should also take specific legal advice as appropriate.

Whilst all regulated businesses, including licensed accountants, bookkeepers (including those self-employed offering services) are required to comply with **the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the “MLR 2017”)** as amended, updated, enacted or re-enacted from time to time, which have superseded **the Money Laundering Regulations 2007**, are required to comply with MLR 2017, many remain unaware of the obligation to also comply with the ongoing requirements of **the Sanctions and Anti-Money Laundering Act 2018 (the “Sanctions Act”), the Counter Terrorism Act 2008 (the “CTA 2008”)** and **the Anti-Terrorism, Crime and Security Act 2001 (the “ATCSA 2001”)** relating specifically to this guidance in relation to screening for sanctions (the “Sanctions Legislation”).

Who is involved in making and implementing sanctions?

All member states of the United Nations are required to implement financial sanctions through Resolutions passed by the UN Security Council, as detailed [here](#).

The United Kingdom imposes those sanctions through the Sanctions Legislation detailed above. The HM Treasury (Office of Financial Sanctions Implementation - OFSI) is the authority in the United Kingdom responsible for implementing financial sanctions on behalf of the HM treasury in the United Kingdom, alongside the Department for International Trade (Export Control Joint Unit) who implement trade sanctions and embargoes. The Department for Transport implements transport sanctions, including the control of movement of ships and aircraft in the waters and airspace of the United Kingdom. The Home Office implements travel bans. HM Revenue & Customs (HMRC) enforce breaches of trade sanctions. The National Crime Agency (NCA) investigates and enforces breaches of financial sanctions.

Sanctions come various forms and are developed in response to given situations. Common types of sanctions include:

Targeted asset freezes;

Restrictions on a wide and varied financial markets and services;

Investment bans;

Restrictions on access to capital markets;

Directions to cease banking relationships an activities;

Directions to cease all business, whether to a specific business, person, group, sector or country.

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It is of critical importance that, as stated on the UK Government [website](#) (as detailed below) that United Kingdom financial sanctions *"apply to all persons within the territory and territorial sea of the United Kingdom, wherever they are in the world."*

What does this mean, in practical terms?

It means that all individuals and legal entities who are within or undertake activities within the United Kingdom's territory must comply with the United Kingdom financial sanctions that are in force. All United Kingdom nationals and legal entities established under United Kingdom law, including their branches, must also comply with the United Kingdom financial sanctions that are in force, irrespective of where their activities take place, as clearly stated on the United Kingdom government [website](#).

The United Kingdom [website](#) also makes it clear that if, having consulted the OFSI Lists (sanction lists), that if a person, entity or ship that you check is not the same as one on such a list, you need not take further action. But, if there is a target match, then you must. This assumes that the match, something regularly referred to as a 'Hit' by industry, is located. You would need to consider if the Hit is a match for your client, or entity, and where you are unsure, you should contact the OFSI for assistance.

The [website](#) goes on to further state what you must, and must not, do. This includes freezing client assets, not deal with them, or make them available to, or for the benefit of, the designated person (your client), and report them to the OFSI.

Prosecution and monetary penalty

The United Kingdom Government makes it quite clear, and states clearly on its [website](#), that *"a breach of these requirements may result in a criminal prosecution or a monetary penalty"* (for failing to do all of the above).

Financial benefit includes the discharge, in whole or in part, of a financial obligation for which the designated person, or entity / asset, is wholly or partly responsible.

Financial sanctions may also include other restrictions in addition to asset freezes and where they exist, they will be listed on the individual regime.

Confusion within industry

We often observe firms that are regulated, making the assumption that the AML (Anti-Money Laundering), CDD (Customer Due Diligence) and CFT (Countering the Financing of Terrorism) checks that they conduct at commencement of a relationship with a client, and regularly thereafter in line with the relevant legislation, capture all requirements. This would be incorrect.

Whilst performing checks to see if a prospective client is sanctioned is an obvious requirement, the ongoing obligation to ensure that any such client is not the subject of sanction is often misunderstood.

As observed, all persons, and firms, within the United Kingdom, whether regulated or not, are required to check that their clients (and their assets in so far as is appropriate) are not the subject to OFSI sanctions.

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How to comply with Sanctions Legislation?

Sanctions can be applied at any time.

The United Kingdom government does not give specific guidance on how to achieve this, other than to check the relevant sanctions lists published by the OFSI, to verify that there is no 'Hit'.

In so far as regulated firms are concerned, regulators often give guidance on this process, usually in the form of taking care to check the sanction lists every day, in case a client is sanctioned at any time. This is often considered by regulators, and trade bodies around the world, to be the best approach. It is, in fact, the only way to ensure compliance with the law.

Regulated entities are often required to also conduct screening for politically exposed persons ("PEP's") and in some circumstances recommended to conduct wider screening as part of their AML obligations. Remember, these are in addition to the sanctions requirements and legislation, and should not be conflated.

In practical terms, this can be a time-consuming and arduous task. Many companies provide services that check the OFSI, and indeed other government sanctions lists, for you.

Their services will often include the checking for PEP's, and other international watch-lists, for example, Interpol and Europol (green and red lists).

In the case that your client is a PEP, you will most likely be required to conduct enhanced due diligence.

How do the AML and Sanction screening services from Caresso Law help me?

We provide guidance, and where appropriate, legal assistance in the matter of AML and sanction compliance.

Our free to use ad-hoc sanction, PEP and watch-list screening tool - **AML Lite**. It is without charge and consumed as a email based service allowing any person, anywhere in the world, to send an email to the service and receive a reply, typically within a few minutes, with a screening report.

It is important to note that this is a non-recurring (non-recursive) screening check, and will not continue to provide ongoing screening.

For ongoing sanction, PEP and watch-list screening, it would involve emailing the service every day, manually, for every client, beneficial owner, related party and asset that you must screen daily in order to remain fully compliant.

If you have one or two clients, or you are conducting one off transactions, **AML Lite** could be right for you, and you are welcome to continue to use it completely free of any charge, or restriction.

If, on the other hand, you have regular clients, whether you are regulated or not, then you must comply with the law and conduct ongoing sanction screening, else face a financial penalty and / or a criminal conviction. Our **AML Pro** upgrade will take care of this automatically for just 25 euro per month, or 150 euro for the year. It also provides a full audit trail for compliance.



Stay legal. Stay compliant.

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