

Are financial sanctions against Russia working?

Context

As a result of Russia's full-scale invasion of Ukraine, the UK and its international partners imposed the most severe sanctions ever imposed on any major economy. Following the deployment of Russian troops, initial sanctions were introduced by the West in February 2022. 1,627 individuals and 238 entities are now subject to UK financial sanctions under the Russia regime. Of these, the UK has targeted 129 oligarchs with a combined net worth of over £145 billion.

Yet, almost as soon as they were announced, evidence that Kremlin-linked Russian oligarchs were able to evade sanctions quickly began to mount: properties owned by family members of those with ties to the regime were far less likely to have been touched, powerful Russians were kept a step ahead of sanctions designations by accounting giant PwC, and oligarchs employed offshore billion-pound trusts to secretly own property empires and to transfer wealth to family members.

Meanwhile, British companies are struggling to ensure that they don't breach sanctions unintentionally, citing "a lack of transparency over the ultimate beneficial owners and controllers of companies, as well as Russian shareholders that may sit behind shell companies".

Despite 473 suspected breaches recorded by OFSI in relation to the Russia regime, there has been zero enforcement for post-February 2022 sanctions breaches. Less than half of recorded breaches appear to have resulted in investigations. While being tasked with the "most extraordinary package of sanctions ever implemented" in UK history, the Office of Financial Sanctions Implementation (OFSI), only had about 45 staff at the time of the invasion, though it has made good progress towards its target of increasing this number by 200% to reach 135 staff by April 2024.

Other measures designed to facilitate sanctions enforcement, such as the Register of Overseas Entities, introduced to crack down on anonymous ownership of UK property, including sanctioned individuals and entities, are also failing. LSE and Warwick University academics found that over 70 per cent of properties held via overseas shell companies still do not publish information about who really owns them.

Roundtable discussion

On the 29th of November 2023, the APPG on Anti-Corruption and Responsible Tax and Spotlight on Corruption jointly organised a roundtable to discuss the effectiveness of the Russia regime. This discussion took a cradle to grave look at the impact of financial sanctions, by examining designation and delisting policy, and sanctions implementation and enforcement.

Representatives from the Foreign, Commonwealth and Development Office (FCDO), Office of Financial Sanctions Implementation (OFSI) and the National Economic Crime Centre (NECC)

APPG on **Anti-Corruption & Responsible Tax**

offered departmental perspectives on their respective responsibilities, and a series of stakeholders from civil society, the legal and financial services industries, and regional experts discussed some of the potential obstacles to the impact of the Russia regime.

Three key challenges to the effectiveness of financial sanctions in the context of the Russia regime emerged, and participants suggested different avenues for tackling these problems.

Firstly, sanctioned individuals and entities have been able to exploit **gaps and lags, between and within sanctioning jurisdictions**. Participants considered the following measures to close these loopholes:

- Kleptocracies like Russia feed off **networks**. Government could take a more systematic approach to targeting, by considering all players in key industries and increasing the use of network sanctions¹, while considering the need for a high and consistent evidential threshold for designation.
- Kleptocracy breeds **conflict**. Although alignment with our western partners might be challenging - due to differences in the impact of sanctions across jurisdictions and legal frameworks, coordination with our western partners is crucial for reasons of national security. Both the targeting and the timing of designations requires multilateral action, due to the risk of capital flight and pre-emptive asset transfers.
- A lack of cooperation across jurisdictions also has **practical consequences**. Mismatched laws can impact UK banks, including a risk of litigation for not acting on UK sanction targets in jurisdictions where they may not be targeted.

There are important private and public sector challenges to sanctions implementation and enforcement due to **information-sharing blocks**, and a **lack of transparency**, which makes it difficult to assess the impact of sanctions.

- There are blocks to **information-sharing**, both between agencies, and across jurisdictions. For instance, data could be better exchanged between OFSI and legal regulators working with firms who provide legal services to sanctioned persons. Importantly, information sharing provisions in the Economic Crime and Corporate Transparency Act only apply to Anti-Money Laundering information, so industry cannot share client-related sanctions

¹ Our sanctions legislation casts a wide net, allowing anyone “associated with” to be designated. Yet, there have been limited examples of the UK using network sanctions, and individuals designated by our agencies are often limited to the principal, the “main” oligarch, rather than targeting individuals around them who they might be using to hide assets (i.e. their network and families).

APPG on **Anti-Corruption & Responsible Tax**

information with peers, which enables those who wish to circumvent sanctions to build a complex web across banks and jurisdictions.

- Increased **data transparency** would enable better impact assessments. This data should include selection, or non-selection, and delisting, while better reporting of data related to the volume of assets frozen and the licensing regime would help assess the effectiveness of the sanctions. These benefits must be balanced with the risk of giving malign actors information to circumvent sanctions, and respect data protection rules.
- The UK's definition of **ownership and control** of captured entities could be clarified. There are four different public interpretations: three interpretations from courts, and one response from the FCDO and OFSI. The UK conception is also different from key allies, such as the USA.

Without **credible enforcement**, sanctions will not act as a deterrent. The sanctions regime will also not be taken seriously by the few would-be bad actors in the private sector if there is no risk of punishment for breaches. Better, bolder and louder enforcement is needed.

- Generating **political will** within government and enforcement agencies to prioritise sanctions cases and between agencies to better coordinate, would improve enforcement efforts.
- **Resourcing** is another key part of the puzzle. OFSI and the National Crime Agency (NCA) have increased resources though tensions remain in the balancing of resources between competing threats. Upskilling our law enforcement bodies is crucial given the seriousness and complexity of sanctions investigations. Having a revolving door of talent between defence and government is an effective recruitment tool in the USA.
- Enforcement must be **bolder**; agencies must make use of the full toolkit at their disposal. Despite known breaches, and strict liability, there have been no meaningful civil fines. The last criminal prosecution was over a decade ago. The creation of the Countering Kleptocracy Cell (CKC) in February 2022 is a positive step, and several cases have been referred to the Crown Prosecution Service (CPS).
- **Bolstering reporting duties** would enable us to clamp down on sanctions-busting enablers. There is a willingness of some legal firms to push the boundaries of ethical practice. We could introduce a duty on the regulated professions to report interactions with an individual or entity prior to their designation. Whistleblower protections and incentives for professionals who take the risky decision to draw attention to sanctions breaches must be strengthened.

APPG on **Anti-Corruption & Responsible Tax**

- Reform of the **licensing regime**² is needed, as there is a risk that it may be undermining the effectiveness of sanctions in its current form, though there is a case for the strategic use of general licences.

Looking forward, a series of roundtables will consider how to best tackle these three challenges to the effectiveness of financial sanctions. The aim of these discussions will be to emit a series of pragmatic recommendations, taking these different avenues for reform as a starting point.

Another event will discuss the impact of trade sanctions and assess the effectiveness of their implementation, in the wake of calls that these are not working as Russia and its allies have largely succeeded in reconfiguring supply chains, and reports of a flow of “ghost trade” - more than \$1bn targeted by sanctions having disappeared in transit to Russia’s economic partners, in response to which the Government has recently created a new unit to crack down on firms dodging trade sanctions.

² Most licences are granted upon application by designated persons or third parties seeking permission to undertake specific transactions that are prohibited under sanctions legislation, including to pay for legal services or basic needs. The Government has also issued a number of general licences, including a general licence for legal services under the Russia and Belarus sanctions regimes in order to permit payment for legal fees and expenses that fall within the scope of this licence.