

Sanctions and Embargoes

A straightforward brochure to explain how sanctions and embargoes work, the ways in which they may impact your business and why it is important to understand them.

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Complex Legislation – A Simple Explanation:

When you work in business, keeping on top of all the different rules and regulations can be hard work. So the bank does what it can to help its customers understand how these changes may potentially impact their business.

In this brochure you will find a straightforward summary of sanctions and embargoes – how they work, your obligations as a business and the potential penalties for non-compliance.

While most businesses will rarely be affected by sanctions and embargoes, the consequences for breaking the rules can be severe. So, we suggest that you study this brochure carefully and, if necessary, seek independent legal advice before entering into any agreements with international clients or their agents.

Sanctions and Embargoes

What is a sanction?

A sanction is a restriction that is imposed on a country, a specific person, a legal entity or an organization. They are used by governments as a non-violent foreign policy tool to fight activities such as financial crime, human rights abuses, the sheltering of international criminals, nuclear weapons development and terrorism.

Sanctions affect financial institutions such as the banks (and their customers) because they place restrictions and controls on the movement of goods, services and money. We, and our customers, are legally bound to adhere to the sanctions imposed by relevant jurisdictions. Typical restrictions associated with sanctions include:

- Prohibiting the transfer of funds to and/or from a sanctioned country and/or Specially Designated Nationals (SDN);
- Freezing the assets of a government, entity, individual or resident of a sanctioned country;
- Prohibiting particular types of activities;
- Imposing travel bans; and
- Other financial and diplomatic restrictions.

What is an embargo?

An embargo is a unilateral or collective restriction on the import or export of goods, materials, capital or services into or from a specific country or group of countries. Embargoes are similar to sanctions and are legal barriers to trade.

We, and our customers, are legally bound to adhere to embargoes imposed by relevant jurisdictions.

What are the penalties for failing to comply with a sanction or embargo?

Infringements of sanctions or embargoes, or dealing with Specially Designated Nationals (SDNs), are regarded as serious offences with severe penalties to match, including seizure of goods, significant fines and even imprisonment.

On top of these penalties, your transactions and your business could be placed at risk. For example, your payments may be confiscated or your funds frozen, restricting your cash flow. You may also be subject to increased due diligence by regulators, financial institutions and counter parties on your future transactions and activities, or financial institutions will refuse to handle transactions on behalf of your company. Ultimately, it's highly likely that your business reputation will be significantly damaged.

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What sort of transactions should I be wary of?

If you or your business are involved in any of the following transactions, you may be at risk:

- You make a payment to someone, who is subject to sanctions or embargoes (SDN);
- You make a payment to someone in a sanctioned country, even if their account is located in a non-sanctioned country.
- The movement of funds or goods in your transaction involves a party that is subject to sanctions or embargoes (for example airlines, banks, shipping vessels and ports).
- Consider transshipment risks - Certain sanctions effect the classification and treatment of goods even if they are just transiting through a country subject to sanctions e.g. goods transiting through Iran to a 3rd country destination would be treated as being of Iranian origin from a US sanctions compliance perspective.

The different types of sanctions:

Multilateral – These are sanctions adopted by more than one country against another country. They are usually issued by supranational bodies such as the United Nations Security Council (UNSC), the European Union or the Arab League; and

Autonomous – These are sanctions adopted by just one country against another country. They are usually issued by domestic government bodies such as the US Office of Foreign Assets Control (OFAC), US Bureau of Industry & Security (BIS) and Her Majesty's Treasury (HMT) in the UK.

Sanctions are not always imposed on an entire country; there are various forms of targeted sanctions, including SDNs.

Specially Designated Nationals (SDNs):

SDNs can be individuals or entities (such as financial institutions, companies, shipping vessels, ports or airlines) and they can be located anywhere in the world.

Authorities designate SDNs for a number of reasons. They may be linked to human rights abuses, nuclear proliferation, terrorism, narcotics trafficking, transnational criminal organizations, or they may support sanctioned regimes.

In most cases, entities that are beneficially owned by or significantly linked to an SDN will also be considered an SDN.

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Goods and Services:

Common sanctioned goods and services range from weapons and rough diamonds to the provision of higher education in specific sciences. The sanctions cover the supply, sale, transfer, maintenance and provision of training in these goods or services, and include fund transfers related to their trade.

Arms embargoes:

Arms embargoes prohibit the trade of certain weaponry as well as products and technologies that may normally be used for civilian purposes but which have military applications (Dual Usage Goods). These items commonly require an export trade license.

Keeping up with changes:

The nature of sanctions and embargoes means that they are subject to frequent and sometimes sudden changes. They can be imposed at any time and by any country, international organization or supranational body. In general, the effect is immediate.

All financial institutions have a duty to ensure that they comply with applicable sanction and embargo regimes. Failing to do so could lead to significant regulatory enforcement action, fines, criminal charges in the UAE or elsewhere, and serious reputation damage.

That's why we, or our correspondent banks, may request certain information about the nature of your business transactions and activities, to determine whether you are complying with current sanction and embargo regimes.

If you do not provide all of the information we request from you, we may not be able to complete your financial transaction and your relationship with our bank and the reputation with the wider financial community may be at risk.

Circumvention:

Circumvention is the taking of specific action to avoid detection of the involvement of SDN or country subject to sanctions in a transaction. For example, this would include:

- Omitting or altering details in payment instruction
- Altering or misrepresenting the port of loading or port of discharge on a Bill of Lading or airports on an Airway Bill
- Routing of payment via an unconnected 3rd party with no apparent commercial involvement or interest in the transaction
- Providing fake or tampered documentation to support a transaction

All of the aforementioned would be seen as criminal/fraudulent activity and an offence under Federal Laws.

The bank, and our Correspondent Banks, assume an extremely firm stance if this activity is identified and will likely exit the client relationship, as well as, in most cases any other relationships with parties involved.

We, and also likely our Correspondent Banks, will also refuse to handle any further transactions involving such businesses.

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Who implements sanctions and embargoes?

UAE - The Central Bank of the UAE is responsible for the implementation of UNSC, Arab League and other sanctions and embargoes from time to time within the banking industry in the Emirates.

European Union – The EU implements sanctions and embargoes (commonly referred to as ‘restrictive measures’ in the EU) under the Common Foreign and Security Policy (CFSP) framework. EU sanctions and embargoes apply to all EU member states.

United Kingdom – Her Majesty’s Treasury (HMT) is responsible for the implementation and administration of international financial sanctions and embargoes in the UK.

United Nations – The United Nations Security Council (UNSC) is responsible for implementing United Nations sanctions and embargoes. All member countries under the Charter of the United Nations are obliged to abide by UN sanctions.

United States – The United States Treasury Office of Foreign Assets Control (OFAC) is principally responsible for administering and enforcing autonomous US sanctions and embargoes, however the Bureau of Industry and Security (BIS) of the US Department of Commerce also administers a number of sanctions in addition to control and licensing of exports from the United States.

Banks may have offices in multiple countries and regions and have foreign currency clearing relationships with international banks in various jurisdictions. They must, therefore, comply with the regulations of their jurisdictions as well.

We would ask that you do not agree to participate in a transaction, which may have a connection with a sanctioned country/party without first contacting the bank.

For more information:

Please see web-links opposite and if sanctions or embargo issues arise in your business, we recommend that you obtain independent legal advice.

Should you still have a specific transaction you would like the bank to consider assisting you with, please contact your Relationship Manager or Branch who will be able to direct your enquiry to the correct department.

Important: The information contained in this guide is general in nature and has been prepared to assist customers in understanding sanctions and embargoes. It is not intended to act as specific advice nor does it purport to contain all matters relevant to your circumstances or any specific transaction. As the environment relating to sanctions and embargoes is dynamic and evolving, this information is subject to change without notice. In particular, you should note that UAE specific circulars relating to economic sanctions may only be issued to concerned institutions and not issued generally to the public. **We are not under any duty or obligation to update or correct it. All information should be checked for accuracy, validity and completeness.**

Current information may be obtained from:

UN - <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>

EU - http://eeas.europa.eu/cfsp/sanctions/index_en.htm

UK - <https://www.gov.uk/guidance/sanctions-embargoes-and-restrictions>

USA - OFAC - <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

USA - BIS - <https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations>