

Horizon Scanner

Financial Crime – UK

April 2022



Immediate impact



Short term impact



On the horizon



Legal issue/risk	When?	What's next	Supporting information
<p>Expansion of sanctions against Russia and Belarus</p> <p>Following the invasion of Ukraine by Russia, the UK, EU and US have all responded by announcing significant sanctions in respect of Russia and Belarus.</p> <p>The sanctions landscape has been changing at a fast pace since February 2022.</p> <p>Restrictions include:</p> <ul style="list-style-type: none"> - Asset freezes; - Capital market restrictions; - EU deposit restrictions; and - Expanded trade restrictions. 	<p>Immediately</p>	<p>It is important that all companies (including financial institutions) with direct or indirect links to Russia and/or Belarus (or individuals linked to those countries) identify whether the sanctions impact their business. This includes (but is not limited to) considering investments, shareholdings, financing arrangements and general business operations.</p> <p>Careful consideration should be given to potential divergence within the US, UK and EU regimes.</p>	<p>Keeping you up to speed: Russian and Belarusian sanctions updates</p>
<p>Economic Crime (Transparency and Enforcement) Act 2022 (the "2022 Act")</p> <p>Following the Russian invasion of Ukraine, the 2022 Act was fast tracked and gained Royal Assent on 14 March 2022. Significant changes were made to the Bill as it passed through its final stages.</p> <p>The 2022 Act has made changes to powers relating to sanctions implementation and enforcement, changes to unexplained wealth orders, and will introduce a Register of Overseas Entities.</p> <p>Certain provisions commence at different times. Certain sanctions provisions came into force on the date of passing of the 2022 Act; however other provisions (e.g. relating to the Register being established/the verification process linked to Companies House) await further regulations.</p> <p><u>Sanctions</u></p> <p>Part 3 of the 2022 Act contains specific sanctions provisions relating to (i) monetary penalties, including the imposition of strict liability when it comes to sanctions compliance (not yet in force); and (ii) changes to</p>	<p>Immediately</p>	<p>The provisions relating to the Register of Overseas Entities will have a significant impact on property/corporate transactions which use an overseas entity to own property in the UK, and involve an additional process to register beneficial ownership with Companies House. Any overseas company owning or intending to own property in the UK should take immediate steps to identify its beneficial ownership (including any trust information). There will be an urgent need to notify Companies House of this information once the Register is established to ensure that no criminal offence is committed and/or no restriction is placed on the property title at the UK Land Registry.</p>	<p>Economic Crime (Transparency and Enforcement) Act 2022</p> <p>ES Briefing: The UK Government wakes up: 5 years on, the Economic Crime Bill has been fast-tracked through Parliament, effective 1 March 2022</p>



<p>sanctions designation procedures which enable the UK Government to adopt an urgent procedure whereby it can designate persons who have been designated by the EU, the US or Canada.</p> <p><u>Register of Overseas Entities</u></p> <p>The general requirement will be for overseas entities which have held property in England and Wales since 1 January 1999 (2014 in Scotland) to register their beneficial ownership with Companies House within six months from regulations coming into force, with an updating requirement as well.</p> <p>There are various criminal offences under the Act for companies and their officers failing to register with Companies House or sending misleading information 'without reasonable excuse'. An aggravated offence of 'knowingly' misleading Companies House carries the maximum sentence of two years' imprisonment.</p> <p>It is clear that the Register of Overseas Entities will relate to disposals of properties made since 28 February 2022 (so have retrospective effect), with any disposals of land made since that date subject to certain information provisions.</p>			
<p>Public Consultation on the FATF Risk-Based Guidance to the real estate sector</p> <p>The Financial Action Task Force ("FATF") is consulting on proposals for the update of the FATF Risk Based Guidance to the real estate sector.</p> <p>The FATF is consulting all interested stakeholders in advance of finalising the Guidance. Views from practitioners, experts and those involved in the broader real estate business are sought.</p> <p>The guidance covers a number of areas, including:</p> <ul style="list-style-type: none"> - Mitigating financial crime and terrorist financing risk; - Challenges faced by the real estate sector; - Risk assessment; - Regulatory obligations; 	<p>22 April 2022</p>	<p>Responses, including drafting proposals, are due by 18:00 (CET) 22 April 2022. FATF will then propose adoption of the Guidance in June 2022.</p>	<p>FATF Publication</p>



- Training; and
- Guidance for supervisors of the real estate sector for the purposes of anti-money laundering/counter terrorist financing compliance.

FATF has stated that the following are key areas where comments would be welcome:

- Any areas not currently covered which may merit consideration.
- Specific business-cases of real estate sector ML/TF risks and threats, and measures put in place by the private sector to address them so that the Guidance could be more helpful and practical.
- Terrorist financing threats as identified by the sector practitioners.



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<p>European Council extends cyber sanction regime until May 2022</p> <p>In May 2019, the EU Council published a legal framework which established the basis on which the EU can impose targeted restrictive measures to respond to cyber-attacks which constitute an external threat to the EU or its member states, which have a significant impact and which originate or are carried out from outside the EU. See Council Regulation (EU) 2019/796</p> <p>The regime was extended for another year and encompasses sanctions that currently apply to eight individuals and four entities, including an asset freeze and a travel ban. EU persons and entities are forbidden from making funds available to those listed.</p>	18 May 2022	<p>On 17 May 2021, the EU Council extended for one more year, until 18 May 2022, the restrictive measures framework against cyberattacks which threaten the EU or its member states.</p> <p>We recommend monitoring the position.</p>	<p>Council prolongs framework for cyber-attacks sanctions for another year</p>
<p>Amendments to JMLSG guidance on syndicated lending due diligence</p> <p>The Joint Money Laundering Steering Group ("JMLSG") has proposed the insertion of a new paragraph 17.29A to its Part II Sector 17 (Syndicated Lending) Guidance.</p> <p>The new revision states that lender should use a 'risk-based approach' when considering the customer due diligence that is available for a borrower under a syndicated loan agreement with the lender completing its due diligence processes 'as soon as practicable after it becomes a lender of record' if the risk of money laundering is low and outstanding information is not considered material from a risk perspective.</p> <p>However, in situations where the borrower is established in a high risk country or there are circumstances where the threat of money laundering or terrorist financing is high, greater care should be taken.</p>	May/June 2022	<p>In March, the revised text received ministerial approval from HM Treasury and we await its inclusion in the Guidance.</p>	<p>Approved Paragraph 17.29A, Part II Sector 17</p>
<p>Review of the Money Laundering Regulations</p> <p>HM Treasury will lead a comprehensive review of the effectiveness and scope of the Money Laundering</p>	26 June 2022	<p>The government issued a call for evidence which closed on 14 October 2021. The review</p>	<p>HM Treasury's call for evidence</p>



<p>Regulations and the OPBAS Regulations and publish a report on:</p> <ul style="list-style-type: none"> – The impact of the existing regulations; – The proportionality of the duties and powers; – The effectiveness of enforcement actions; and – The interaction with other legislation. 		<p>will commence this year, with a report to be delivered by 26 June 2022.</p>	
<p>EBA's central AML/CTF database</p> <p>On 31 January 2022, the European Banking Authority (EBA) launched its central database for anti-money laundering and counter-terrorist financing (AML/CFT). This European reporting system for material CFT/AML weaknesses, EuReCA, will be central to coordinating efforts by competent authorities and the EBA to prevent and counter money laundering and terrorist financing (ML/TF) risks in the Union.</p> <p>EuReCA will contain information on material weaknesses in individual financial institutions in the EU that competent authorities have identified. Competent authorities will also be reporting the measures they have imposed on financial institutions to rectify those material weaknesses.</p> <p>Examples of material weaknesses include the lack of adequate AML/CFT policies and procedures including the absence of transaction monitoring at the group level and the absence of policies and procedures for high-risk customers, which increase the ML/TF risk associated with the financial institution.</p>	Mid 2022	<p>Financial institutions throughout the EU should take note of what could be reported in the central database.</p> <p>EuReCA will not start to collect personal data until the approval of the draft Regulatory Technical Standards by the European Commission.</p>	<p>Regulatory Technical Standards on a central database on AML/CFT in the EU European Banking Authority (europa.eu)</p>
<p>UK Foreign Affairs Committee inquiry on illicit finance</p> <p>In February 2022, the House of Commons Foreign Affairs Committee announced an inquiry, 'Responding to illicit and emerging finance', which will build on its Moscow's Gold report and explore how effectively the UK is responding to the flow of 'dirty money'. The inquiry will also consider the impact that fintech innovations, such as cryptocurrency and central bank digital currencies, could have on the international rules and norms that govern the global financial system.</p>	Mid 2022	<p>The deadline for written submissions to the Committee was Tuesday 15 March 2022. The next stages for the inquiry are to be announced.</p>	<p>Foreign Affairs Committee launches 'dirty money' inquiry</p>



<p>Law Commission project on Corporate Criminal Liability</p> <p>The Law Commission has issued a consultation seeking views "on whether, and how, the law relating to corporate criminal liability can be improved". This follows a request from the UK Government asking the Law Commission to investigate the laws around corporate criminal liability and provide options to reform them.</p>	Mid 2022	<p>The consultation opened on 9 June and closed on 31 August 2021.</p> <p>We await publication of the Paper.</p>	<p>Law Commission project on corporate criminal liability</p> <p>Government Press Release: Spotlight on corporate crime laws</p> <p>Discussion Paper</p>
<p>EBA consultation on the role of AML/CTF compliance officers</p> <p>The European Banking Authority (EBA) launched a public consultation on 2 August 2021 on new guidelines on the role, tasks and responsibilities of anti-money laundering and counter-terrorist financing (AML/CFT) compliance officers, and managers responsible for AML/CTF.</p> <p>The proposed guidelines are in line with existing European Supervisory Authorities guidelines. However, this will be the first time (at EU-level) that guidance is published to address the AML/CFT governance setup.</p> <p>A virtual hearing was held on 28 September 2021 to hear submissions on the draft guidelines.</p>	Mid 2022	<p>The deadline for comments was 2 November 2021. We await publication of the results.</p>	<p>EBA Press Release: EBA consults on new Guidelines on the role of AML/CFT compliance officers</p>
<p>Digital Identity</p> <p>Following the Digital Identity call for evidence in 2019, the Government published a consultation on how the digital identity system should operate. The consultation sought views on the digital identity governance system, how to allow organisations to make digital checks against government-held data, and the legal validity of digital identities.</p> <p>The consultation closed on 13 September 2021.</p> <p>The Government has announced that it will introduce legislation to make digital identities more trustworthy and secure. A new Office for Digital Identities and Attributes (ODIA) will be set up in the Department for Digital, Culture, Media and Sport as an interim governing body for digital identities. The ODIA will have the power to issue an easily recognised Trustmark to certified digital identity organisations, to prove they meet the security</p>	Mid/Late 2022	<p>In advance of the proposed legislation, landlords, letting agents and employers will be able to use certified new technology to carry out the right to work and the right to rent checks online from the 6th April, 2022 and prove their eligibility to work or rent more easily.</p>	<p>Government Press Release: Plans for governing body to make digital identities as trusted as passports</p> <p>Consultation outcome</p> <p>Government Press Release: New legislation set to make digital identities more trustworthy and secure</p>



<p>and privacy standards needed to handle people's data in a safe and consistent way.</p>			
<p>EBA consultation on new remote customer onboarding guidelines</p> <p>On 10 December 2021 the EBA launched a public consultation on draft guidelines regarding the use of remote customer onboarding solutions.</p> <p>The guidelines lay out a common understanding on the steps the financial services sector should take to ensure remote customer onboarding practices are compliant with AML/CTF legislation, as well as the EU's data protection regulations.</p>	Mid/Late 2022	<p>A public hearing took place via conference call on 24 February 2022. The consultation closed on Thursday 10 March 2022. The consultation results are awaited.</p>	<p>EBA Press Release: EBA consults on new remote customer onboarding guidelines</p>
<p>EU anti-coercion instrument</p> <p>On 8 December 2021, the European Commission proposed an anti-coercion instrument in "response to the EU and Member States becoming the target of deliberate economic pressure in recent years". The aim of this instrument is to deter third party countries from restricting trade or investment with EU parties in an effort to bring about policy change within the EU.</p> <p>The proposed legislation would apply where a third country seeks to, or threatens to, apply measures affecting trade or investment. The EU would be required to adopt measures in response in certain circumstances.</p>	Mid/Late 2022	<p>The proposal will now be discussed and agreed with the European Parliament and EU Council. A draft report is expected in Q2 of 2022.</p> <p>We recommend monitoring the position as such legislation, if introduced, would significantly expand the EU's "blocking" ability in respect of third country action, and would likely add an extra level of complexity for those operating within the EU.</p>	<p>EU Press Release: EU strengthens protection against economic coercion</p> <p>Commission proposal</p>
<p>Venezuela: European Council extends restrictive measures</p> <p>The restrictive measures include an embargo on arms and equipment used for internal repression, as well as a travel ban and an asset freeze on 36 listed individuals in official positions.</p> <p>The political situation in Venezuela remains unstable and further restrictive measures may be imposed.</p> <p>Enhanced restrictive measures in respect of Venezuela akin to those currently imposed by the US would have a particular impact on certain sectors including oil and gas and associated services such as trade finance and insurance.</p>	14 November 2022	<p>The Council has extended the restrictive measures against Venezuela until 14 November 2022. We recommend monitoring the position.</p>	<p>EU Council extends Venezuela sanctions until 14 November 2022</p>



On 22 February 2021, the European Council also adopted a Regulation adding 19 Venezuelan officials to the sanctions list. The decision follows the EU's declaration in light of the December 2020 election in Venezuela.



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<p>Foreign Interference Committee finalises recommendations</p> <p>The EU Parliament Special Committee on Foreign Interference in Democratic Processes was set up in 2020 to assess the level of threats of interference in numerous areas, including major elections across the EU, whether that be by the dissemination of misinformation, cyber-attacks and financing of political opposition groups.</p> <p>The Special Committee recommended, after an inquiry, that the EU establish a sanctions regime targeting foreign State actors that engage in interference and disinformation campaigns designed to destabilise the EU.</p>	12+ months	We await the imposition of an EU sanctions regime targeting disinformation	<p>Press Release: EU should build a sanctions regime against disinformation</p> <p>Final Report</p> <p>Press Release: Foreign interference committee finalises recommendations</p>
<p>European Parliament recommendation concerning corruption and human rights</p> <p>In February 2022, the European Parliament published a recommendation on corruption and human rights to the European Council which puts forward several ideas and suggests that the EU work towards a global anti-corruption strategy by, for example, establishing a Council on anti-corruption and by improving the European Parliament's role in 'the scrutiny of anti-corruption efforts.'</p> <p>The recommendation also include:</p> <ul style="list-style-type: none"> – The EU enrich and operationalise its toolbox by 'strengthen[ing] the mainstreaming of a human rights-based anti-corruption approach'; – Support civil society, journalists and human rights defenders; – Promote transparency and accountability of public bodies such as the judiciary and in electoral processes and public procurement and lobbying; – Fight against corruption in multilateral forums, e.g. by pushing back against kleptocracies; 	12+ months	The recommendation was sent to the Vice President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy in February 2022. We await a response.	<p>European Parliament recommendation of 17 February 2022</p>



<ul style="list-style-type: none"> – Put processes into place to ensure that businesses are taking corruption and human rights into accounts, for example, by ensuring that 'all large and listed companies report on their activities and the implementation of their anti-corruption and anti-bribery'; and – Sanctioning corruption through the EU Magnitsky Act 			
<p>Economic Crime Report</p> <p>In February 2022 the House of Commons Treasury Committee published its Economic Crime Report which takes into account the effectiveness of measures to address economic crime in the UK since 2019 and also considers the Government's Economic Crime Plan.</p> <p>The Report makes a number of recommendations, including:</p> <ul style="list-style-type: none"> – That the Government considers creating a single law enforcement agency with direct responsibility for economic crime; – A proposed £100 company formation fee which would act as a source of funding for Companies House and could potentially limit economic crime by reducing the ease with which companies can be set up; – Looking at the de-risking of customers by banks by ensuring that the FCA report annually on the number of de-risking decisions and 'on progress to ensure that banks are not unfairly freezing bank accounts'; – Legislation against fraudulent online adverts and reimbursements to those who fall prey to online scams and push payment fraud; and – Regulations for consumer protection across the entire crypto asset industry. 	12+ months	<p>While the Report was harsh in its summary of the action taken by the Government so far, we note that some of the recommendations made by the Report, such as the proposed Register of Overseas Entities Bill which would establish a public register of beneficial owners of overseas entities, was included in the recent Economic Crime Act 2022. The Report has cross-party agreement and with economic crime thrust into the spotlight since the invasion of Ukraine by Russia, we recommend monitoring the position.</p>	<p>Economic Crime Report 2022</p>
<p>OECD issues Anti-Bribery Recommendation</p> <p>On 26 November 2021, the Organization for Economic Cooperation and Development (the "OECD") issued its Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions.</p>	12+ months	<p>The OECD's Working Group on Bribery will report on the implementation of the 2021 Anti-Bribery Recommendation every five years.</p>	<p>High-Level Statement on the 2021 Anti-Bribery Recommendation</p>



<p>The recommendation calls for a global response to the challenges posed by bribery. The most significant part of the Recommendation is the focus on the "Demand Side" of bribery. The Recommendation states that member countries should "raise awareness of bribe solicitation risks", and it encourages member countries to create laws to scrutinise the solicitation of improper gifts, expenses and payments by public officials.</p>			
<p>FCA and Bank of England work programme regarding transforming data collection</p> <p>After a review launched in January 2020, the FCA and the Bank of England have published a work programme to set out the key challenges and areas for reform in data collection in the financial services sector.</p> <p>The work programme will deliver on three critical areas of reform:</p> <ul style="list-style-type: none"> – Integrating reporting; – Modernising reporting instructions; and – Defining and adopting common data standards. <p>The first phase will take place over the next 24 months from February 2021, and will impact a small number of selected use cases. The second phase will take place over the following three years and will focus on expanding the transformation into new areas.</p>	<p>12+ months</p>	<p>We recommend regulated companies monitor the rollout of the programme and engage with related regulator industry forums and Town Hall events.</p>	<p>Transforming data collection from the UK financial sector: a plan for 2021 and beyond</p> <p>Dear CEO letter</p>
<p>Consultation on Confiscation under the Proceeds of Crime Act 2002</p> <p>In September 2021, the Law Commission launched a consultation paper on potential reform of the UK's confiscation regime. The consultation has now closed. The Commission is currently analysing the responses and preparing its final policy recommendations.</p>	<p>12+ months</p>	<p>We await the Commission's policy recommendations and accompanying report.</p>	<p>Law Commission's project page</p>
<p>EU Commission publishes results of Blocking Regulation Consultation</p> <p>The European Commission has published the results of its consultation on amending the EU Blocking Statute. From 86 responses (including 25 position papers), the</p>	<p>12+ months</p>	<p>The European Commission will consider the responses and submit a proposal to the European Council.</p>	<p>Published summary of the results of the Blocking Regulation consultation</p> <p>ES Briefing: EU Commission reports on</p>



<p>Commission has summarised the most common responses as follows:</p> <ul style="list-style-type: none"> – Respondents indicated that extra-territorial sanctions affect a range of sectors and industries within the EU, but that the financial sector (including banking, insurance and payment services) is the most negatively affected; – Respondents emphasised the US's control over international financial flows and the importance of the US Dollar; – Respondents stated that there has been a significant increase in the negative effects of extra-territorial sanctions over the past 10 years; – The majority of respondents indicated that the Blocking Regulation has been unsuccessful in achieving its objective of protecting EU operators from complying with extra-territorial sanctions and a lack of enforcement undermines the prohibition; – Some respondents indicated that the current penalties for breaching the Blocking Regulation administered by some Member States are not sufficient, and a vast majority believed penalties should be harmonised across the EU; and – The vast majority of respondents indicated that the EU Commission should add measures to the Blocking Statute to counter (and deter) the extra-territorial application of third country sanctions. 			<p>reforming EU Blocking Regulation</p>
<p>EU legislative package on AML/CTF</p> <p>On 20 July 2021, the EU proposed a comprehensive legislative package focused on combatting money laundering and terrorist financing. The package includes four legislative changes:</p> <ul style="list-style-type: none"> – A new EU AML authority to supervise compliance of financial intelligence units and enhance cooperation; – A new regulation on AML/CTF to include rules on customer due diligence, beneficial ownership, and limits on large cash payments; – A sixth directive on AML/CTF to replace AMLD 5; and 	<p>12+ months</p>	<p>The AML authority is intended to become operational in 2024. We recommend monitoring the rollout of the legislative package.</p>	<p>European Commission Press Release: Beating financial crime: Commission overhauls anti-money laundering and countering the financing of terrorism rules</p>



- Revision of the 2015 Regulation on Transfers of Funds to help in tracing transfers of crypto-assets.



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