

# UK Sanctions post-Brexit: the Retained EU Blocking Statute

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On 19 November 2020, the DIT issued [guidance](#) on how the UK's "*Protection of Trading Interests Legislation*" (which includes the retained EU Blocking Statute) will operate in the UK after the end of the Brexit transition period on 1 January 2021 (the "**DIT Guidance**").

## **Background to the EU Blocking Statute**

Article 5 of the [Council regulation \(EC\) 2271/96](#) (the "**EU Blocking Statute**") prohibits EU individuals and entities from complying with certain foreign laws implementing proscribed sanctions (currently, US sanctions against Cuba and Iran) unless the European Commission grants them an authorization to comply with such laws.

Article 2 of the EU Blocking Statute requires EU persons to notify the European Commission if their economic and/or financial interests have been affected by those foreign laws.

Breaches of Articles 2 and 5 of the EU Blocking Statute amount to criminal offences in the UK punishable by a fine.

## **The UK's Protection of Trading Interests Legislation and the DIT Guidance**

Like most EU law, the EU Blocking Statute and its [Implementing Regulation \(Commission Implementing Regulation \(EU\) 2018/1101\)](#) ("**Implementing Regulation**") apply as such to the UK until the end of the Brexit transition period on 31 December 2020.

After the end of the transition period, the EU Blocking Statute and the Implementing Regulation will form part of retained EU law applying to the UK by virtue of the [European Union \(Withdrawal Act\) 2018](#).

The [Protecting against the Effects of the Extraterritorial Application of Third Country Legislation \(Amendment\) \(EU Exit\) Regulations 2019](#) amend some domestic legislation so that the retained EU Blocking Statute and the retained Implementing Regulation can continue to take effect in the UK after the end of the transition period. This domestic legislation, together with the retained Blocking Statute and the retained Implementing Regulation, is known as the UK's “**Protection of Trading Interests Legislation**”.

The DIT Guidance explains the effects of the Protection of Trading Interests Legislation:

- The Protection of Trading Interests Legislation will apply to various categories of “*protected persons*”, which include:
  - individuals resident in the UK (regardless of their nationality);
  - legal persons incorporated in the UK including UK-incorporated subsidiaries of US or EU businesses (but not branches of US or EU businesses);
  - UK nationals providing maritime transport services or legal persons (wherever incorporated) providing maritime transport services and controlled by a UK national, where the vessel is registered in the UK; and
  - any other natural person physically present within the UK, including within its territorial waters or air space, or in any aircraft or on any vessel under the jurisdiction or control of the UK acting in a professional capacity.
- From 1 January 2021, a protected person whose financial or trading interests have been affected by foreign sanctions legislation under Article 2 of the retained EU Blocking Statute will need to notify the DIT (as opposed to the EU Commission).
- Under the Protection of Trading Interests Legislation, breaches of Articles 2 and 5 of the retained Blocking Statute will continue to amount to criminal offences in the UK.
- From 1 January 2021, if a protected person wishes to comply with foreign laws covered by the retained EU Blocking Statute, they will have to request an authorization from the Secretary of State for International Trade (as opposed to the European Commission). The DIT Guidance notes that an authorization will be required, for example, if a protected person wants to apply for a license from US authorities under those laws.
  - Any authorizations granted to a UK business by the European Commission prior to the end of the transition period will still be applicable in the UK after 1 January 2021.

- Authorizations granted in the EU after the end of the transition period will not be recognized in the UK. This means that a UK subsidiary of an EU business authorized in the EU will need to seek separate authorization in the UK.

If you have any questions regarding the UK or US sanctions regimes, please contact Peter Burrell, David Mortlock, Simon Osborn-King or the Willkie lawyer with whom you regularly work.

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