

CLIENT ALERT

# OFSI's Imposition of its Largest Monetary Penalty Demonstrates the Breadth of Conduct Against Which it May Take Action

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The Office of Financial Sanctions Implementation (“**OFSI**”) has issued its third and largest monetary penalty for breaches of financial sanctions.

A monetary penalty of £146,341 was issued against Telia Carrier UK Ltd (“**Telia**”), a communications provider, for breaches of the Syria (European Union Financial Sanctions) Regulations 2012. OFSI found that Telia had indirectly facilitated international phone calls to SyriaTel, a designated entity, and as a result, had repeatedly made funds and economic resources indirectly available to SyriaTel over an extended period of time.

Financial sanctions in the form of an asset freeze generally prohibit:

- i) dealing with frozen funds or “economic resources”, belonging to or owned, held or controlled by a designated person;
- ii) making funds or “economic resources” available, directly or indirectly, to or for the benefit of a designated person; and
- iii) engaging in actions that, directly or indirectly, circumvent financial sanctions prohibitions.

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This case is important as it illustrates that OFSI is not only focussed on “traditional” sanctions breaches – the first two monetary penalties it imposed were on companies for dealing with funds belonging to designated persons under the EU Egypt financial sanctions regime. The facts of this case extend beyond that, and demonstrate that “economic resources” can cover a wide variety of both tangible and intangible resources including, in this case, the indirect facilitation of international phone calls.

In making its finding, OFSI emphasised the importance of companies recognising and identifying breaches of financial sanctions regulations, taking steps to stop the activity and reporting them to OFSI. The Financial Sanctions Guidance issued by OFSI states that OFSI will take full and prompt disclosure of a breach into account when considering the course of action to take in response. In this case, no voluntary disclosure was made by Telia to OFSI.

This approach is also consistent with OFSI's Annual Review, published in October 2019, in which OFSI emphasised that non-compliance with financial sanctions is a serious offence, and that it would take proportionate and appropriate action in every instance of a breach with a view to deterring future non-compliance. OFSI highlighted in its Annual Review that there are still instances where institutions overlook their obligations despite being aware of the risks posed to their business from sanctioned entities. OFSI also emphasised the need for institutions to work together with it in reporting financial sanctions breaches in order to make the regime more effective.

Companies should therefore risk assess their potential exposure to financial sanctions and ensure that appropriate financial sanctions screening and diligence are applied where necessary.

By way of a reminder, OFSI was established in 2016 to enforce and implement financial sanctions in the UK and, pursuant to the Policing and Crime Act 2017, was afforded new powers to impose monetary penalties on companies and individuals found to have breached financial sanctions on the civil burden of proof.

The first two penalties imposed by OFSI earlier this year were for £5,000 and £10,000 respectively, and this case against Telia therefore marks a significant increase in the size of the penalty. OFSI can impose such penalties up to a maximum of £1 million or 50% of the value of the breach, whichever is greater. The monetary penalty imposed in this case was originally £300,000; however, Telia exercised its rights to a Ministerial review of the penalty, during which it provided clarification regarding the nature of the transactions, which information was not originally available to OFSI. The Minister considered that OFSI's original penalty was proportionate and appropriate based on the information available to OFSI, but the clarification provided by Telia resulted in a reduction in the penalty amount to £146,341.

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