

## ***De Minimis* Self-Certification Form**

<b>Title of Measure</b>	The Global Anti-Corruption Sanctions Regulations 2021
<b>Department</b>	Foreign, Commonwealth & Development Office
<b>Directorate</b>	Sanctions Unit; Multilateral, Sanctions and Strategic Engagement Directorate
<b>Lead Departmental Contacts</b>	Sam Williams
<b>Legislative / Non-legislative</b>	Legislative
<b>Estimated NPV (if calculated)</b>	<b>N/A - Optional</b>

### **Policy Overview**

The Sanctions and Anti-Money Laundering Act 2018 (“the Sanctions Act”) provides the domestic legal framework to enable the UK to implement UN and other sanctions regimes through the laying of Statutory Instruments.

The Global Anti-Corruption Sanctions Regulations 2021 (“the Regulations”) seek to prevent and combat corruption by enabling Ministers to impose asset freezes and travel bans on those involved in serious corruption around the world. The Regulations will demonstrate UK leadership and ambition on global corruption, enabling us to address instances of serious corruption around the world, support the UK’s Anti-Corruption Strategy and create opportunities for new areas of collective action on corruption. The Foreign, Commonwealth and Development Office (FCDO) completes annual reviews for all sanctions regulations (as required under the Sanctions Act), as will continue to be the case with the Regulations.

### **Options Appraisal**

The Government has considered two options:

**Option 1: Do nothing:** Relying on existing powers to combat corruption. These include bilateral tools such as political lobbying, public statements, anti-corruption dialogues, project work and technical assistance, and multilateral engagement. It includes relying on existing sanctions regimes, which cover corruption amongst other things, such as the mixed UN/UK regimes for South Sudan, Somalia and Libya. These include criteria under which the UK can designate such persons for their involvement in the misappropriation of state assets. Furthermore, there are existing law enforcement tools used to deal with corruption.

Under this scenario, the UK has some scope to combat corruption around the world. But under this scenario the UK is not able to act quickly to pursue sanctions against those involved in serious corruption in countries where there is not a relevant existing sanctions regime in place.

**Option 2: Create new secondary legislation [Preferred Option]:** Making use of existing powers granted under the Sanctions Act to bring forward secondary legislation, creating a Global Anti-Corruption sanctions regime.

Option 2 is the preferred option. Option 2 gives the UK discretion to impose sanctions in response to serious corruption around the world, even where there is no coverage under an existing UN or UK autonomous geographic-focused corruptions sanctions regime. This also provides flexibility in cases where achieving the required multilateral consensus at the UN is excessively time-consuming or unsuccessful. Option 2 will allow us to work more closely with international partners, including the US and Canada, who already use sanctions to address corruption. This option enables the UK to demonstrate leadership and ambition on reducing global corruption, and the agility to respond autonomously to serious corruption around the world. The 2021

Integrated Review of Security, Defence, Development and Foreign Policy highlights the introduction of a new global sanctions regime on corruption as a UK priority for our international leadership in defending democracy, human rights and the rule of law.

### **Direct Costs to Business**

The Regulations will use established processes for notifying businesses about sanctions and designated individuals, entities and organisations in accordance with the Sanctions Act. As such, we do not believe significant changes to IT systems or administrative processes will be required.

There could be a small marginal increase in costs for businesses based on an increase in the number of designated persons across all UK regimes. For the purposes of our assessment, we assumed 30 additional persons would be listed in a typical year under the Regulations vs. the “do nothing” scenario. We based this estimate, which has a high degree of uncertainty, on existing plans to consider c.30 persons for designation from the outset, with an expected increase over time. We assumed roughly 60% of designated persons will also be designated under existing sanctions regimes by the US or Canada. This proportion may be higher for the first tranche, but it would be misleading to base the estimate solely on that data as it may over-estimate the extent of crossover in designations. While there is a high degree of uncertainty around both estimates, they provide indicative guidance on costs.

As part of a sensitivity analysis, throughout the assessment we also provide cost estimates for a prospective year with up to 60 additional designations – on the basis that our current assumption could be a severe underestimate and, five years hence, the number of designations turns out to be double our current estimate. We also provide sensitivity analysis on our baseline assumption of 60% of designations already undertaken by US or Canada, providing alternative estimates for if this proportion were only 30%.

Based on current numbers of designated persons under existing sanctions regimes, an increase of 30 persons per year would represent an increase of approximately 1.3 percent per year. However, this proportion assumes designations under all other regimes remain static, which is unlikely. Equally, using this proportion as the basis for estimating impact to UK business assumes the proportion of designations involving a freezing of existing UK assets is in line with other regimes. In reality, it is not possible to estimate how much higher the proportion of designations with existing UK assets will be, or at what rate designations under other regimes will rise, given HMG has not determined (or yet disclosed) targets for designations. Given this uncertainty, we have used an estimate of a 3% rise in designations for our cost assessments, in order to protect against the high-end outcomes.

Based on these assumptions, we have divided direct costs to businesses into monetisable and non-monetisable costs as outlined below.

*[Continued on the next page.]*

**Table 1. Monetisable direct costs to UK business**

Type	Detail	Evidence and scale of potential impact	Estimated annual impact
Compliance costs	Increase in labour hours to deal with greater manual checks; increased training for staff required to ensure compliance to additional regime; systems update to include newly sanctioned individuals	<p>All businesses in all sectors are obliged to comply with sanctions, and therefore need to have adequate controls in place. Historically, enforcement actions have been more prominent in Financial Services, but all sectors must comply with sanctions. For example, the Office of Financial Sanctions Implementation (OFSI) has published financial sanctions guidance for charities and non-governmental organisations<sup>1</sup>.</p> <p>We have grouped compliance costs into three groups based on available open source research and existing outreach to interest groups representing UK businesses.</p> <p><b>Systems/software updates:</b> Compliance screening software is available for prices ranging from ≈£1,000/year to upward of £20,000/year and beyond, depending on the required volume of annual checks<sup>2</sup>. The number of checks required by a business varies with the number of customers that business has. Most software is used to screen for anti-money laundering, adverse press and anti-bribery (among others), as well as for sanctions compliance. Furthermore, most software will screen for compliance to UN, U.S. and EU sanctions (among others), at the same time as for UK sanctions. Subscriptions are paid for on a per-user basis. Give this cost structure, once a certain grade screening software is purchased, the software cost is invariable to the number of persons listed under a UK sanctions regime. Therefore, while there may be significant fixed software costs, businesses are likely to have already incurred these in order to comply with existing global sanctions regimes. The marginal compliance costs from the introduction of this regime are <u>expected to be negligible</u>.</p> <p><b>Increased training for staff:</b> Firms already require their staff to undergo training – regardless of the existence of this new regime – in order to ensure compliance to new designations under existing regimes, or new regimes by other nations. Therefore, there is unlikely to be significant additional training required (on top of existing training) due to the</p>	Negligible

		<p>Regulations, so the cost is <u>expected to be negligible</u>.</p> <p><b>Increased staff numbers:</b> While firms spend significant sums of money on screening systems and training staff, there will always remain a number of “fuzzy matches” that require significant labour hours<sup>3</sup>. Producing an estimate of this cost was challenging due to a number of factors businesses identified during FCDO outreach on this matter. There are many different teams involved in sanctions (e.g. oversight and looking at requests, string matching, screening and filtering, sourcing and uploading into the various systems, managing technical changes) but few, if any, solely working on UK sanctions. Many firms operate their entire <i>global sanctions</i> compliance operations from a London base, so untangling the costs of complying with UK sanctions from the costs of complying with myriad other sanctions is complex and challenging. Given these limitations, despite our best efforts and outreach to UK business, <u>we have not been able to come to an estimate for the marginal costs to UK businesses of increased compliance-related staffing from the Regulations</u>. FCDO is committed to completing greater analysis in this area and continuing outreach to UK business.</p> <p><b>Overall,</b> there are undoubtedly significant <i>fixed</i> compliance costs to businesses, including subscriptions to screening systems, paying and training staff. However, this assessment is of the additional cost to businesses of compliance brought about by the Regulations, not all costs of sanctions compliance. On that front, the marginal cost is not expected to be significant and is expected to fall below the threshold for a de minimis assessment<sup>4</sup>.</p> <p><b>Sensitivity analysis:</b> Many of the firms likely to be impacted by a new regime will do business with the U.S. and Canada, and thereby be responsible for screening those persons listed under US and Canadian regimes. Our estimate is that 60% of proposed designations under this</p>	
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<sup>1</sup> [Sanctions screening: a best practice guide](#), accessed 25<sup>th</sup> February 2021

<sup>2</sup> Based on prices from a representative supplier available online ([AEB](#)). Accessed 1<sup>st</sup> March 2021. Range covers subscriptions to a service providing 25,000 address checks per year (£92/month) to 25 million checks per year (1,843/month)

<sup>3</sup> [Written evidence from Neil Whiley to Parliament](#), December 2018

<sup>4</sup> This assessment of ‘negligible’ includes both our assessment of the negligible marginal costs to staff training and software upgrades, but also our inability to come to an estimate on increased staff due to the challenges outlined in the table.

		regime will also be designated by the U.S. and Canada, and thereby many firms would already have adapted to deal with these designations (i.e. c.30 new UK designations may only represent c.12 new persons to be screened on account of the Regulations). This is not always the case, as businesses may not be conducting business with U.S. and Canada, so the impact of flexing these assumptions is shown in the following table.	
Opportunity costs	Travel bans	<p>Estimated average length of a visit to the UK in days: 4 - 14 days<sup>5</sup></p> <p>Amount spent per individual per day: £80-£300<sup>6</sup></p> <p>Estimated cost of return flights to London: £500 - £1000<sup>7</sup>, of which 62% of flights are with UK carriers<sup>8</sup></p> <p><b>Estimated UK business revenue per visit to UK per person: £630 - £4,820<sup>9</sup></b></p> <p>Estimated number of persons designated under Global Anti-Corruption sanctions regime in a typical year: 30.</p> <p>Estimated average number of trips to UK foregone per year by designated individuals: 0.5 - 3<sup>10</sup></p> <p><b>Estimated total forgone revenue per year: £9,450 - £433,800.</b></p> <p>Based on estimated profit margin of 10%, the <b>estimated net annualised costs to UK businesses: £945 – 43,380<sup>11</sup></b></p>	Range: c.£1k-£45k

<sup>5</sup> [Inbound tourism trends by market](#), Visit Britain. Calculation based on average of 7.09 nights per stay in 2019.

<sup>6</sup> We produced a range oriented around the £102 average amount spent per tourist per day on visits to London in 2014 and 2015, according to [inbound tourism trends by market](#), Visit Britain. We adjusted upwards to account for inflation and likely higher disposable income among targeted individuals, with a particularly long tail to account for very high-income targets.

<sup>7</sup> We cannot find evidence to support this assumption so we estimated a broad range to achieve a minimum and maximum range of £200-£100. We then revised this range based on the likely geography of targets: excluding the European Union removed the lower-end of the flight costs. This left us with a highly uncertain range, weighted to the upside, of £500-£1000.

<sup>8</sup> [Air Transport Movements](#), CAA, 2018.

<sup>9</sup> A sense check supports this range, given the average amount spent by tourists in 2019 was £696, based on [Inbound tourism trends by market](#), Visit Britain. As it is likely that targeted individuals will have higher than average disposable income, it makes sense for the lower-end of our range to be in line with the overall average for all persons.

<sup>10</sup> Without any designations having been made we cannot find evidence to support this assumption so we have estimated a broad range to achieve a minimum and maximum range

<sup>11</sup> Revenue does not translate to a direct cost to businesses, as businesses will retain the asset, which they may resell to another individual (e.g. a seat on a plane, a hotel room). Furthermore, we base these

		If we flex our baseline assumption of 30 additional designations to up to 60 designations, the cost estimate would double (c.£2k-£90k) but remain sufficiently below the £5m threshold to not alter our overall assessment.	
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### Cost to business matrix (sensitivity analysis)

	60% cross-over with US and Canada	30% cross-over with US and Canada
30 additional designations (rounded up to a 3% increase)	c.£1k-£45k (opportunity costs) + negligible (transition costs) = c.£1k-£45k	c.£1k-£45k (opportunity costs) + negligible (transition costs) = c.£1k-£45k
60 additional designations (rounded up to a 6% increase)	c.£2k-£90k (opportunity costs) + negligible (transition costs) = c.£2k-£90k	c.£2k-£90k (opportunity costs) + negligible (transition costs) = c.£2k-£90k

### Non-monetisable direct costs to business

- **Asset freezes – compliance.** There may be an increase in administrative and reporting costs on a range of relevant firms. We cannot quantify these costs prior to designation.
- **Asset freezes – opportunity costs** (e.g. bank accounts, stocks and shares, property). As the designated persons will be unable to access their assets, they will also be unable to buy/sell assets. As such, there will likely be forgone commission on transactions that cannot take place (e.g. property sales) which otherwise would have been received in revenue by a range of relevant firms. Furthermore, the inability to transfer holdings out of underperforming assets and into other, more profitable, assets represents a minor inefficiency in the allocation of capital in the economy. On the other hand, UK businesses will likely see a reputational benefit from reduced likelihood of profiting from transactions conducted on behalf of those involved in serious corruption. We cannot quantify these costs prior to designation.
- There may be a small proportional increase in **asset flight** (c.3% - equivalent to the proportional increase in sanctions designations) as a greater number of individuals/entities, believing they are at risk of sanctions, transfer assets outside UK jurisdiction to avoid them being frozen. However, businesses in the UK will see a reputational benefit as the likelihood of managing the assets of those involved in serious corruption falls.

An increase in **business’ external legal costs and other professional services** will have a distributional impact, but we have assumed they will net to approximately zero across the UK as a whole, assuming legal and professional services firms engaged are UK-based.

“Licensing” is when an application is made to undertake activities prohibited under the Regulations, e.g. deal with the assets of designated individuals or entities. We do not expect significant additional impact on businesses in relation to **licensing** procedures, though there could be a proportional increase in the number of licensing applications. While there is no fee for applying for OFSI licences, companies may need to seek legal advice regarding licences; therefore, there may also be administrative costs.

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estimates on travel patterns pre-Covid and does not take into account any scarring to the travel industry or medium-term changes to travel patterns, which would both reduce the cost. Therefore, this estimate weights to the upper-end of likely outcomes.

## **Benefits for businesses**

- Preventing and combatting serious corruption overseas will likely reduce barriers to institutional and economic development which, in the long-term, should increase opportunities for UK businesses, trade and prosperity.

## **Wider Impacts, Transfers and Benefits**

In addition to the stated direct costs above, there will be some wider impacts and transfers resulting from the Regulations.

- **The UK's reputation as a place to do business.** There may be a reputational cost resulting from perceived higher risk and perceived compliance burden of doing business in the UK – particularly if there is over-compliance. However, we may offset these costs through the enhancement of the UK's reputation as a 'clean' place to do business. Businesses' reputational risk may fall by divesting from relationships with individuals and entities associated with serious corruption.
- **Crown Dependencies and Overseas Territories – costs.** Some Crown Dependencies and Overseas Territories rely heavily on investment from external investors to their financial centres to support their economies; this regime may deter some external investors from investing.
- **Crown Dependencies and Overseas Territories – benefits.** There may be reputational benefits, supporting recent efforts to increase transparency. Those Crown Dependencies and Overseas Territories with significant financial centres have committed to creating public registers of the beneficial owners of the companies. The Statutory Review on the implementation of the 2017 arrangements for exchange of notes on beneficial ownership between the UK and those Overseas Territories with financial centres and the Crown Dependencies showed promising results. The Review covers the first 18 months of the arrangements and found that they have been extremely useful in supporting investigations. They have provided UK law enforcement agencies with rapid access to beneficial ownership information on over half a million legal entities, representing 87% of the businesses within scope<sup>12</sup>. On 30 September 2020, the British Virgin Islands committed to making information on those who own and control companies in the tax havens public by 2023.<sup>13</sup>
- **Retaliatory measures.** UK businesses may incur costs if bilateral measures are enacted in retaliation to UK sanctions. These costs are unquantifiable prior to designation.
- **Public sector.** There will also be increased costs to the public sector.
  - Within **FCDO**, we estimate an increase in personnel equivalent to approximately two full-time employees (FTEs) at C4 grade, 0.53x D6 (split across two individuals in different teams – 0.33x and 0.2x) and 0.05x D7. The marginal cost of 1x C4 is estimated at £56,118 per annum incl. salary, pension, tech, office space and other marginal costs<sup>14</sup>. The marginal cost of 1x D6 is estimated at £90,790 per annum incl. salary, pension, tech, office space and other marginal costs. The marginal cost of 1x D7 is estimated at £106,955 per annum incl. salary, pension, tech, office space and other marginal costs. Therefore, the total cost of 2x FTEs at C4, 0.53x FTEs at D6 and 0.05x FTEs at D7 is £112,236 + £48,119 + £5,348 = £165,703 per annum.
  - In our baseline assumption, we expect no increase in monitoring and evaluation costs within **OFSI** (HM Treasury) as these will be absorbed within existing processes. However, if FCDO were regularly to designate persons with assets in the UK, there may be repercussions for licensing and compliance processes that may require additional caseworkers. As it is not possible to assess the scale of UK assets caught by the

<sup>12</sup> Anti-Corruption Strategy, Year 2 Update, 2017-2022

<sup>13</sup> [Huge win for anti-corruption campaigners as BVI pledges company ownership transparency](#), Global Witness, September 2020

<sup>14</sup> Salary estimates provided by FCDO Finance Department (accurate as of January 2021)

potential designations under the regime prior to their designation, we are unable to be more precise in terms of the resourcing impacts.

- The **NCA** investigates financial sanctions breaches referred to it by OFSI and other partners. The resource required to adopt these cases is difficult to assess due to the varied nature of the referrals. On average, the NCA receives six referrals per year and adopts 1-2 investigations, which requires at least 4.5 FTE staff to deal with, at a staffing cost of £294,012. Other significant unknown costs can apply dependant on the case, such as legal, travel and court costs. The NCA anticipates that the introduction of the Anti-Corruption regime will likely result in an increase of referrals from OFSI to the NCA. Should the amount of referrals double, for example, the NCA will require eight FTE staff, at a likely cost of £473,309, as well as further funding for other additional costs.
- **Promoting security, economic development and good governance.** Serious corruption leads to unstable and less prosperous societies by diminishing public trust, weakening institutions and undermining rule of law. Discouraging this conduct will help facilitate conditions conducive for security, economic development and good governance. The UK will benefit from a more secure, prosperous world and a decrease in corruption as a net drain on GDP.

### **Justification for De Minimis self-certification**

We opted for a De Minimis self-certification as the costs to UK businesses of the Regulations are expected to sit well under the threshold of £5m per annum. Even under a sensitivity analysis – doubling the number of additional designations per annum – the estimate remains well below the threshold.

### **Impacts on Small Businesses**

Small firms are impacted disproportionately by regulatory burdens and so will likely bear a greater relative familiarisation cost. Small and micro-businesses will not be exempt from this regulation. However, all firms – large or small – are already obliged to have processes in place to ensure compliance with existing sanctions regimes under the Sanctions Act. There will be no change to the way UK business, charities and voluntary bodies are notified of sanctions designations. Therefore, we believe no significant changes to IT systems or administrative processes will be required so the additional impact to small business would be minor.

As well as familiarisation costs, small businesses may incur marginal costs due to the Regulations. If previously operating in jurisdictions not subject to a geographic sanctions regime, designating persons from that jurisdiction under the Global Anti-Corruption sanctions regime may increase their risk of non-compliance. There is also a risk some small businesses may choose to over-comply and de-risk by withdrawing from some jurisdictions altogether despite the sanctions only targeting individuals and entities. However, the majority burden of the cost of non-compliance (i.e. penalties) is likely to be in the international financial sector, encompassing fewer small and micro-businesses.

### **Family Test**

The Regulations provide for HMT to grant licences that permit certain otherwise prohibited activities. For example, licences enabling designated persons to pay for their essential needs or reasonable legal fees. Exceptions to prohibitions that would not require a licence are set out in the Regulations. Furthermore, the Secretary of State may direct, on an individual basis, that the travel ban does not apply, for example for the purposes of attending UN meetings.

### **Public Sector Equality Duty (PSED) Test**



Separate PSED documents have been produced on The Global Anti-Corruption Sanctions Regulations 2021.

**Politically sensitive?**

The Regulations will have strong cross-party support in principle. Parliamentarians have called for the powers contained in the Sanctions Act to be used to introduce an anti-corruption sanctions regime, particularly following the introduction of the Global Human Rights sanctions regime. The Regulations are subject to the made affirmative procedure, which means both Houses of Parliament must approve them in order to remain in force.

**Text for Explanatory Memorandum**

*Impacts*

The FCDO has undertaken a De Minimis impact assessment to estimate costs to UK businesses and wider impacts resulting from the Regulations. We have estimated the costs to be beneath the threshold of £5m per annum for a full impact assessment, with costs resulting primarily from a small increase in the number of sanctions designations.

UK businesses must already comply with sanctions against the individuals and entities appearing on a regularly updated gov.uk list. The process for notifying businesses about sanctions and designated persons remains unchanged, so we do not expect significant changes to IT systems or administrative changes. Therefore, costs are limited to familiarisation costs, opportunity costs of travel bans and asset freezes, and costs relating to compliance, legal advice and other professional services.

Fully quantifying costs is not possible, as the UK's use of sanctions will depend on future events and ministerial decisions; however our best estimate is that they sit well below the £5m threshold. Even under a sensitivity analysis – doubling the number of additional designations per annum – the estimate remains well below the threshold.

**Review Provision**

Statutory Review Provision	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Non-Statutory Review Provision	Yes <input type="checkbox"/> No <input type="checkbox"/>
Ministerial Statement	Yes <input type="checkbox"/> No <input type="checkbox"/>
Review period (if applicable)	<b>1 Year 0 months</b>

**Senior Policy Sign off: Lisa Maguire**

**Date: 16<sup>th</sup> April 2021**

**Senior Analyst sign off: Tom Strachan**

**Date: 9<sup>th</sup> April 2021**