

Flash Update (UK): OFSI update on financial sanctions reporting obligations - impact on Crypto Firms

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United Kingdom

- Crypto assets
- Fraud and financial crime
- Sanctions

Summary

Within UK sanctions legislation there are reporting requirements for “relevant firms”. Until recently, these reporting obligations applied to certain regulated firms – financial and credit institutions, lawyers, accountants, estate agents etc.

On 19 July 2022, the UK Government issued legislation which changed the definition of a “relevant firm” to now include crypto-asset exchange providers and custodian wallet providers (“Crypto Firms”). As such Crypto Firms will now have reporting obligations under UK sanctions legislation.

It is an offence to fail to comply with the reporting obligations with both civil and criminal penalties applying.

This change takes effect on 30 August 2022, however, Crypto Firms should take action now to ensure they are in a position to comply come 30 August 2022.

Impact

The change in definition of “relevant firms” to include Crypto Firms within its scope means that under UK sanctions, such Crypto Firms must now report to the Office of Financial Sanctions Implementation (“OFSI”) where they:

- have knowledge or reasonable cause to suspect that a person (individual or entity) is a designated person (i.e. a person subject to a UK asset freeze)
- have knowledge or reasonable cause to suspect that a person has committed a breach of UK sanctions; and/or
- hold funds/economic resources which have been frozen as a result of them being owned or controlled (directly or indirectly) for or on behalf of a designated person

The information on which such knowledge or suspicion is based must come to the Crypto Firm in the course of their business.

Next steps

It is an offence to fail to comply with these reporting requirements, which can carry both criminal and civil penalties.

The requirement to report comes into effect on 30 August 2022. However, crypto firms will be immediately impacted and as such will need to ensure they have appropriate processes in place to be able to comply with the requirement. Whilst Crypto Firms should already be ensuring compliance with financial sanctions this update highlights the importance of:

- identifying someone within the business to be responsible for dealing with reporting
- understanding how to report to OFSI and when
- ensuring appropriate persons understand the legal obligations under UK financial sanctions legislation and how that impacts Crypto Firms
- having appropriate processes in place to ensure that risk is identified and that financial sanctions are complied with, particularly in the case of omnibus wallets; and
- keeping detailed records (to act as an audit trail for compliance purposes)



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