



Financial Sanctions Implementation Unit

Sanctions Licences and Exemptions Guidance

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Introduction

Specific exceptions and licensing powers can allow otherwise prohibited transactions and prohibited activity to take place in some circumstances.

A licence is a written permission from the Minister for External Relations (the “**Minister**”) allowing an act that would otherwise breach prohibitions imposed by financial sanctions.

Grounds for licence applications are set out at Article 16 of the Sanctions and Asset-Freezing (Jersey) Law 2019 (“**SAFL**”) and in the relevant UK Sanctions Regulations (for e.g., the Russia (Sanctions) (EU Exit) Regulations 2019 (the “**UK Russia Regulations**”)) implemented in Jersey under the Sanctions and Asset-Freezing (Implementation of External Sanctions) (Jersey) Order 2021 (the “**Sanctions Order**”).

An exception to a prohibition applies automatically in certain defined circumstances as set out in Article 15 of SAFL, and in UK Sanctions Regulations implemented in Jersey under the Sanctions Order, and does not require you to obtain a licence from the Minister (though there may be reporting obligations).

You should be particularly cautious when seeking to use exceptions in implemented UK Sanctions Regulations; many such exceptions are drafted for a specific UK-context (for e.g., referring to UK legislation).

It should be noted that we cannot provide legal advice on any matter and applicants should consider taking independent legal advice before making any application, especially for complicated matters.

Crediting frozen accounts

Asset freezing legislation permits the following actions without a licence:

- a relevant financial institution (as defined in SAFL) crediting a frozen account with interest or other earnings due on the frozen account, so long as those funds are frozen immediately.
- a person transferring funds to a relevant firm for crediting a frozen account where those funds are transferred in discharge (or partial discharge) of obligations that were concluded or arose before the date the person became sanctioned.
- a relevant financial institution crediting a frozen account with payments from a third party, provided that the incoming funds are also frozen and that it informs the Minister as soon as practicable, but in any case, within 14 days.

Independent person holding legal or equitable interest in frozen funds or economic resources

UK Sanctions Regulations create an exception to allow independent persons to transfer their legal or equitable interests in frozen funds or economic resources to another person, where immediately before the transfer all the provisions in 1-4 below are present:

1. The independent person is not a designated person;
2. The independent person holds the interest in the funds or economic resources;
3. The independent person does not hold the interest jointly with a designated person; and

4. The independent person isn't owned or controlled, directly or indirectly by a designated person.

Licensing Overview

The Minister's powers to grant licences are set out at Article 16 of SAFL. However, it is important to note that the Minister will only normally grant a licence if there is scope in the relevant UK Sanctions Regulations for an equivalent licence to be granted by the UK Treasury, and where the conditions in those grounds have been met. The available grounds can be found in the [relevant UK Sanctions Regulations](#). When considering making an application, you may wish to seek legal advice.

See the Table below for more information on the Jersey Financial Sanctions Unit ("FSIU") approach to licensing grounds.

Licences cannot be issued retrospectively. If you have carried out an act that required a licence, without having obtained one beforehand, you may have breached financial sanctions and you should inform the Minister immediately at sanctions@gov.je

It is important to note that the Minister only issues licences in relation to his areas of competence; a licence does not confirm that a particular transaction as a whole is lawful under financial sanctions regulations (for example, in some cases a further licence, such as an export control licence, may be required).

A licence is a written permission from the Minister allowing an act that would otherwise breach prohibitions imposed by financial sanctions. It does not compel any party, including the financial institutions involved in the payment route, to take any action. It confirms, solely, that the act(s) specified in the licence are allowed by the Minister.

Licensing Grounds

The following table sets out the licensing grounds commonly found in UK Sanctions Regulations as well as the FSIU's approach to them. Some licensing grounds cannot be applied to persons designated by the United Nations. As noted above, the exact grounds available can be found in the legislation underpinning each particular financial sanctions regime. The FSIU carefully scrutinises all applications made to assess whether they fall under the relevant licensing grounds. **Table 6.A:**

Licensing ground	FSIU's approach
Basic needs	<ul style="list-style-type: none"> • UK Sanctions Regulations confirm that the ground is present to enable the basic needs of a designated person, or (in the case of an individual) any financially dependent family member of such a person to be met. • Expenditure to meet basic needs of an individual should be expenses which are necessary to ensure that

	<p>designated persons or financially dependent family members are not imperilled.</p> <ul style="list-style-type: none"> • In respect of a person other than an individual e.g. an entity, the legislation confirms that basic needs <i>includes</i>: <ul style="list-style-type: none"> ○ payment of insurance premiums. ○ payment of reasonable fees for the provision of property management services. ○ payment of remuneration, allowances or pensions of employees. ○ payment of tax. ○ rent or mortgage payments. ○ utility charges. • The list of basic needs detailed above is not exhaustive but is indicative of the type of basic needs intended to be caught. Therefore, expenditure to meet the basic needs of an entity should be expenses strictly necessary to ensure the continued existence of the designated entity. • Basic needs licences do not necessarily enable a designated person to continue the lifestyle or business activities they had before they were designated.
<p>Fees for the provision of legal services</p>	<ul style="list-style-type: none"> • Both legal fees and disbursements must be reasonable. It is for the applicant to demonstrate to FSIU that the legal fees and disbursements are reasonable. • In most cases, you can provide legal advice to or act for a designated person without a licence from the Minister, however, you cannot receive any payment for that advice without first obtaining a licence from the Minister. • The Minister can only authorise payment of reasonable legal fees and disbursements in relation to legal services provided to a designated person. You are strongly encouraged to apply for a licence in advance of providing substantive legal services in order for you to have certainty as to the fees that will be recoverable whilst the designated person remains listed. • In support of your application, you should: <ul style="list-style-type: none"> ○ provide an estimate of the anticipated fees and/or fees that have already been incurred; ○ provide a breakdown of how the fees will be charged and/or have been charged; and ○ identify any disbursements, such as payments for counsel and/or expert witnesses. • FSIU considers that the UK's Supreme Court Cost Guides or the sums that could be expected to be recouped if costs were awarded, provide a useful starting point for assessing the reasonableness of legal fees and disbursements. • If you are seeking fees of a level in excess of those, you need to demonstrate why those increased fees are reasonable in the given case. • Fees and disbursements must relate specifically to the provision of legal advice, involvement in litigation or in dispute resolution.

<p>Routine maintenance of frozen funds and economic resources</p>	<ul style="list-style-type: none"> • The fees or service charges must be reasonable and result in the routine holding or maintenance of frozen funds or economic resources. • The re-design, refurbishment or redevelopment in order to improve the value of a frozen economic resource is generally not covered, although each application will be considered on a case-by-case basis.
<p>Extraordinary expenses</p>	<ul style="list-style-type: none"> • This must be extraordinary in nature (unexpected, unavoidable, and not recurring). • It cannot be used where other licensing grounds are more suitable or as a way of avoiding the clear limitations of those other grounds.
<p>Pre-existing judicial decisions etc.</p>	<ul style="list-style-type: none"> • This enables the use of frozen funds or economic resources that are the subject of a judicial decision or lien which was established before the date of designation and enforceable in Jersey. The use of the funds or economic resources must be to implement or satisfy in whole or in part the pre-existing judicial decision or lien and cannot be for the direct or indirect benefit of a designated person.
<p>Humanitarian assistance activity etc.</p>	<ul style="list-style-type: none"> • This enables payments to facilitate: <ul style="list-style-type: none"> ○ any humanitarian activity; or ○ where applicable, any activity where its purposes are consistent with the objectives of UN Security Council Resolutions (which will be set out in the applicable UK Sanctions Regulations). • Humanitarian assistance includes the work of international and non-governmental organisations carrying out relief activities for the benefit of the applicable civilian population, which may include the delivery of humanitarian aid or peace-building programmes. • A licence may still be required even if this activity is using government funds.
<p>Diplomatic missions</p>	<ul style="list-style-type: none"> • This enables anything to be done in order that the proper functions of a diplomatic mission or consular post or an international organisation enjoying immunities in accordance with international law, may be carried out.
<p>Extraordinary situations</p>	<ul style="list-style-type: none"> • This must be extraordinary in nature (unexpected, unavoidable, and not recurring). • This applies to non-UN designated persons and enables anything to be done to deal with an extraordinary situation. This will enable a situation which is extraordinary in nature but does not necessarily involve an expense. • This may, for example, allow for funds to be released to support disaster relief or provide aid in extraordinary situations. It cannot be used where other grounds are more suitable or as a way of avoiding the clear limitations of other grounds.

Prior obligations	<ul style="list-style-type: none"> • The obligation must have arisen prior to the date of designation and cannot relate to trade provisions (specified in the UK Sanctions Regulations). In addition, it cannot result in funds or economic resources being made available (directly or indirectly) to the designated person.

General Licences

UK General Licences

As of 18 September, all UK General Licences made under the Russia and Belarus Regimes have automatic effect in Jersey and may be relied upon by Jersey persons.

UK General Licences include reporting requirements which must be adhered to when the licence is relied upon. All Jersey persons that rely upon a UK General Licence must also submit any report to the Minister.

You should be particularly cautious when seeking to use rely on Russia or Belarus UK General Licences; many of the provisions used are drafted for a specific UK-context (e.g. referring to UK legislation). We recommend that you consider taking legal advice before seeking to rely on them.

Jersey General Licences

A Jersey General Licence, issued by the Minister, allows multiple parties to undertake specified activities which would otherwise be prohibited by sanctions legislation, without the need for a specific licence.

It is not however, a substitute for a specific licence. There is no legal basis for the issuance of a Jersey General Licence in place of a specific licence.

In most cases, details of active Jersey General Licences and any accompanying guidance will be made available on the sanctions page on the Government of Jersey website.

The FSIU does not accept applications for general licences. Jersey General Licences are issued by the Minister under such conditions deemed appropriate and will usually be considered in response to unforeseen circumstances where it has been decided that issuing a Jersey General Licence will best support the Government of Jersey's policy priorities.

For example, a Jersey General Licence could be used to respond to a situation where it may be necessary for persons to undertake otherwise prohibited financial activity because the

Government of Jersey has introduced an unrelated financial services policy that would otherwise be hindered by sanctions law, provided that it does not contradict the policy intent of the sanctions regime. A Jersey General Licence is not limited to the derogations (licencing grounds) set out in the relevant legislation (except for UN sanctions regimes, in relation to which a Jersey General Licence would be limited to the derogations set out in the relevant UN resolution). A Jersey General Licence can be issued under the counter-terrorism regimes.

The Minister can vary, suspend or revoke Jersey General Licences at any time. The FSIU aims to engage with relevant stakeholders before taking such action.

Each Jersey General Licence will include requirements for prior notification of use, record-keeping and reporting. Prior notification is an administrative exercise only, whereby users provide the FSIU with contact information. Prior notification does not constitute any verification by the FSIU of correct/incorrect usage of a Jersey General Licence. Data collected under a Jersey General Licence as a result of prior notification would be handled in accordance with applicable data protection law. In addition to these standard requirements, general licences may be subject to further requirements. These are determined on a case-by-case basis.

Requirements will be stated in each Jersey General Licence. It is the responsibility of any party using a Jersey General Licence to ensure the activities they undertake fall within the terms of the Jersey General Licence and that they comply with any conditions of the licence.

As is the case with specific licences, a person commits an offence, and is liable to imprisonment for a term of 5 years and to a fine, if the person purports to act under the authority of a general licence but fails to comply with any condition to which the licence is subject.

Legal advice

Generally, you will not be prohibited from providing legal advice under an asset freeze. However, the payment for legal services and the provision of legal services on credit do require a licence.

Also, where sanctions prohibit specific actions, for e.g., restructuring of finance, you need to carefully consider whether your advice and support for the client is helping them comply with sanctions or is participating in or facilitating a breach. For example, if it is prohibited to raise capital on financial markets, providing advice on how this affects a business will be permitted. However, preparing documents to raise such capital may amount to an attempt to circumvent sanctions.

Court fees

FSIU's view is that both court fees and payments into court, for security costs, can be licenced under the reasonable legal fees licensing ground. However, FSIU is of the view that a separate licensing ground needs to be identified to pay security for damages into court, depending on the specific circumstances of the case. Court fees which will be invoiced to a designated person client as a disbursement can be paid without a licence only if they are not 'significant'. Whether a court fee is 'significant' is to be considered on the facts.

Investments

Generally, you cannot invest your frozen funds, profit from frozen funds, or move frozen funds from one account to another.

The exceptions or existing licensing grounds found in UK Sanctions Regulations are unlikely to allow such activity to be permitted but each application will be considered on a case-by-case basis.

Applications for licences in relation to asset freezes implemented by Jersey legislation will need to demonstrate that such activity is in line with the licensing policy for the relevant regime (e.g. Russia).

FSIU's view is that, in a small number of circumstances, some asset management may be permitted, under the 'basic needs' licensing ground, to ensure that the existence of the business or the frozen assets is not imperilled. When considering licensing requests for asset management, the nature and state of the assets at the time of any relevant designation will be considered. It is highly unlikely that requests for new or expanded activity will be permitted but every application is dealt with on a case-by-case basis.

Applying for a licence

You must provide evidence to support an application and demonstrate that all criteria of the relevant licensing ground (where applicable) have been met. Incomplete applications will not be considered and will be returned to the applicant for re-submission.

FSIU will endeavour to assist applicants who contact us to understand the licensing process as well as our evidentiary requirements. However, we cannot provide legal advice and applicants should consider taking independent legal advice before applying, especially for complicated matters.

FSIU expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching FSIU for guidance or submitting an application.

Submitting an application

Applicant's should use the available [form](#) to apply for a licence and return the completed form to sanctions@gov.je.

A licence will only normally be granted by the Minister if there is scope in the relevant UK Sanctions Regulations for an equivalent licence to be granted by the UK Treasury.

Applicants will generally be required to provide:

- the licensing ground(s) being relied upon in the application including supporting arguments.
- full information on the parties involved in the proposed transaction, e.g. the:
 - designated person(s);
 - any financial institution(s) involved (e.g. remitter, correspondent, beneficiary);
 - ultimate beneficiary of the transaction;
 - the complete payment route including account details; and

- the amount (or estimated amount) of the proposed transaction.

You should always refer to the up-to-date versions of Jersey's sanctions legislation, available on the [Jersey Legal Information Board website](#), in addition to the up-to-date, relevant UK Sanctions Regulations. Links to the UK Sanctions Regulations can be found on the [relevant UK financial sanctions regime pages](#).

Tips for applicants

- 1 Read this guide and the up-to-date version of the relevant Jersey legislation and UK Sanctions Regulations.
- 2 Identify the appropriate licensing ground.
- 3 Use the licence application form on our website (you may wish to seek legal advice to support this process).
- 4 Provide a clear description of the payment chain and all parties involved.
- 5 Ensure that all relevant information and supporting evidence is included with the application.
- 6 Be available to fully engage with FSIU on your application.
- 7 Where applicable, make sure your bank is aware of the situation.

Specificity in licensing

In line with international best practice, FSIU's view is that compliance with financial sanctions is generally best served through specificity in licensing about the transactions authorised. Licence applicants should therefore be prepared to provide full details of transactions relevant to their application(s), including all parties, sums and payment routes involved directly or indirectly in the proposed transaction(s) as well as any other relevant information which will assist FSIU in considering an application.

Counter-terrorism regimes

If you are seeking a licence under either the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) regime, the Counter-Terrorism (International Sanctions) (EU Exit) regime, or the Counter-Terrorism (Sanctions) (EU Exit) regime, you should email sanctions@gov.je setting out the full details of the proposed transaction.

Knowingly or recklessly providing false or misleading information in any licence application is taken very seriously. Doing so may result in a criminal prosecution.

Licensing timeframes

FSIU aims to review all new licensing applications as soon as practicable. FSIU will prioritise cases at times of high demand, and in particular where there are issues of personal basic needs and/or wider humanitarian issues at stake which are of material impact or urgency, or which are deemed to be of particular strategic, economic or administrative importance. If there

are particular aspects of your application that you believe make your case especially urgent, please set these out clearly in your application for the consideration of FSIU.

We are unable to provide individual confirmation of receipt, however, you will receive an automatic response. Given the high volume of applications that we are receiving, we will not be able to provide regular updates or respond to requests for further information during the course of our review, unless we have specifically requested further information from you. Once you have submitted your application, please do not contact us to seek updates or discuss the status of the application unless you are directly asked to provide further information, or there has been a material change of circumstances which may require more immediate review.

Licence applications should be submitted to FSIU well in advance of the date from which the licence is required, with comprehensive supporting information. A completed application is one where FSIU has received all the information we need to enable us to make a decision about whether there is a legal basis to grant a licence. We will send back incomplete applications or ask you for additional information until we are satisfied that your application can be considered complete. Complex cases may also require further information from, or dialogue with, other parties including the United Nations and FSIU equivalents where necessary. Please note that failure to submit all the necessary information requested by FSIU will result in delays to your application being processed.

You should not assume that a licence will be granted or engage in any activities prohibited by financial sanctions until you have received an appropriate licence from FSIU that has been granted by the Minister.

Urgent and humanitarian cases

FSIU will prioritise urgent and humanitarian cases, i.e. cases that involve a risk of harm or a threat to life.

If a request is urgent, please say so when submitting your application and explain why. Unless an application is genuinely urgent, it will not be treated as such.

Notification and approvals

Please note the Minister may need to notify, or in some cases seek approval from, the relevant United Nations Sanctions Committee before issuing a licence. These requirements are set out in the relevant UN Security Council Resolutions.

These requirements will lengthen the processing time for such licence applications and may in some cases prevent a licence from being issued.

Amending licences

Requests for an amendment, variation or extension of a licence should be submitted to FSIU by email as soon as it is apparent that a change is required. Full supporting information and arguments should be provided.

If multiple amendments need to be made to a single licence, you should group these together into a single request to FSIU.

FSIU cannot guarantee that last-minute amendments, variations or extensions will be authorised within the requested timeframe.

You must not carry out any action(s) which are not authorised by a valid licence. For example, if a licence has expired or you have reached a cap on permitted spending, further activity may not be lawful.

Any such actions will be considered a breach of financial sanctions and may result in a criminal prosecution.

Refusal of a licence

If the Minister refuses to issue a licence, the proposed transaction or activities may not be lawful. FSIU will write giving you the reasons your application has been refused.

Your application may also be refused if you do not require a licence for the proposed transaction or activities.

If you have had an application for a licence refused, you have the following options:

- ask the Minister to review the decision.
- re-apply with new or supplementary evidence or new supporting arguments.
- re-apply under a different derogation (where applicable).
- seek to challenge the decision in the Royal Court.

You may wish to seek independent legal advice before taking the matter further.

Other jurisdictions

Licences issued by the Minister only apply to actions subject to Jersey jurisdiction. If the prohibited activity engages another jurisdiction, you should consider what provisions you may need to comply with within their requirements. For instance, if a payment will pass through several jurisdictions you may need to apply for a licence from each of those countries' competent authorities.

When considering licensing requests, the Minister will conduct whatever investigation he or she deems appropriate in the circumstances, which may include consulting with international partners with an interest.

Complying with a licence

Specific licences issued by the Minister are not published. However, the Minister expects licence holders to share licences with other parties to the transaction. If you are unsure on whether the action you propose to undertake is within the terms of a licence you can seek clarification from the FSIU. We aim to respond to such queries within two weeks of receipt.

If you are unsure about the validity of a licence that a designated person or their representative has shown to you, you should email a copy of the licence to sanctions@gov.je

You should not assume that FSIU agrees with your interpretation of the licence until you receive a response from us.

Any conduct outside the terms of the licence, such as use of a different payment route or payments in excess of a specific payment cap, is a breach of financial sanctions, and may result in a criminal prosecution.

Reporting conditions

Licences issued by the Minister come with conditions that often require information to be reported to the Minister within a specific time frame. A failure to comply with these reporting requirements may result in the revocation, suspension or termination of a licence or further restrictions being included in it. It may also result in a criminal prosecution.

Legal advisors should proactively engage with their clients about the need to provide information to meet the reporting requirements in licences.

Travel to Jersey

Designated persons who are not subject to a travel ban and who are planning to visit Jersey should apply to the Minister for an appropriate licence authorising any proposed use of funds or economic resources to support themselves while on the Island.

The requirement to obtain a licence before travelling also applies to non-designated persons visiting Jersey who are funded, in whole or in part, by a designated person.

Anyone dealing with funds that should be frozen, or who makes economic resources available to a designated person without an appropriate licence will be committing an offence, which may result in a criminal prosecution.

Export licences

If you import or export goods, you need to consider if financial sanctions apply to you. You may need a licence from the Minister as well as from the UK's Export Control Joint Unit (ECJU):

<https://www.gov.uk/government/organisations/export-control-organisation>