

# Sanctions and End-Use Controls

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# Overview – Sanctions in the UK



Export Group for Aerospace, Defence & Dual-Use

## Asset freezes

- Funds or assets belonging to or held, owned or controlled by Designated Persons
- Making funds or assets available, directly or indirectly, to or for the benefit of Designated Persons
- Financial services
- Circumvention

## Other financial sanctions

- Sanctions on financial transactions / investments relating to certain countries
- Directions to cease business
- Circumvention

## Trade sanctions

- Arms embargoes
- Internal repression
- Export restrictions on certain items and certain end-users
- Financing and financial assistance, brokering and technical assistance
- Circumvention

Office of Financial Sanctions Implementation

National Crime Agency

Export Control Organisation

Import Licensing Branch

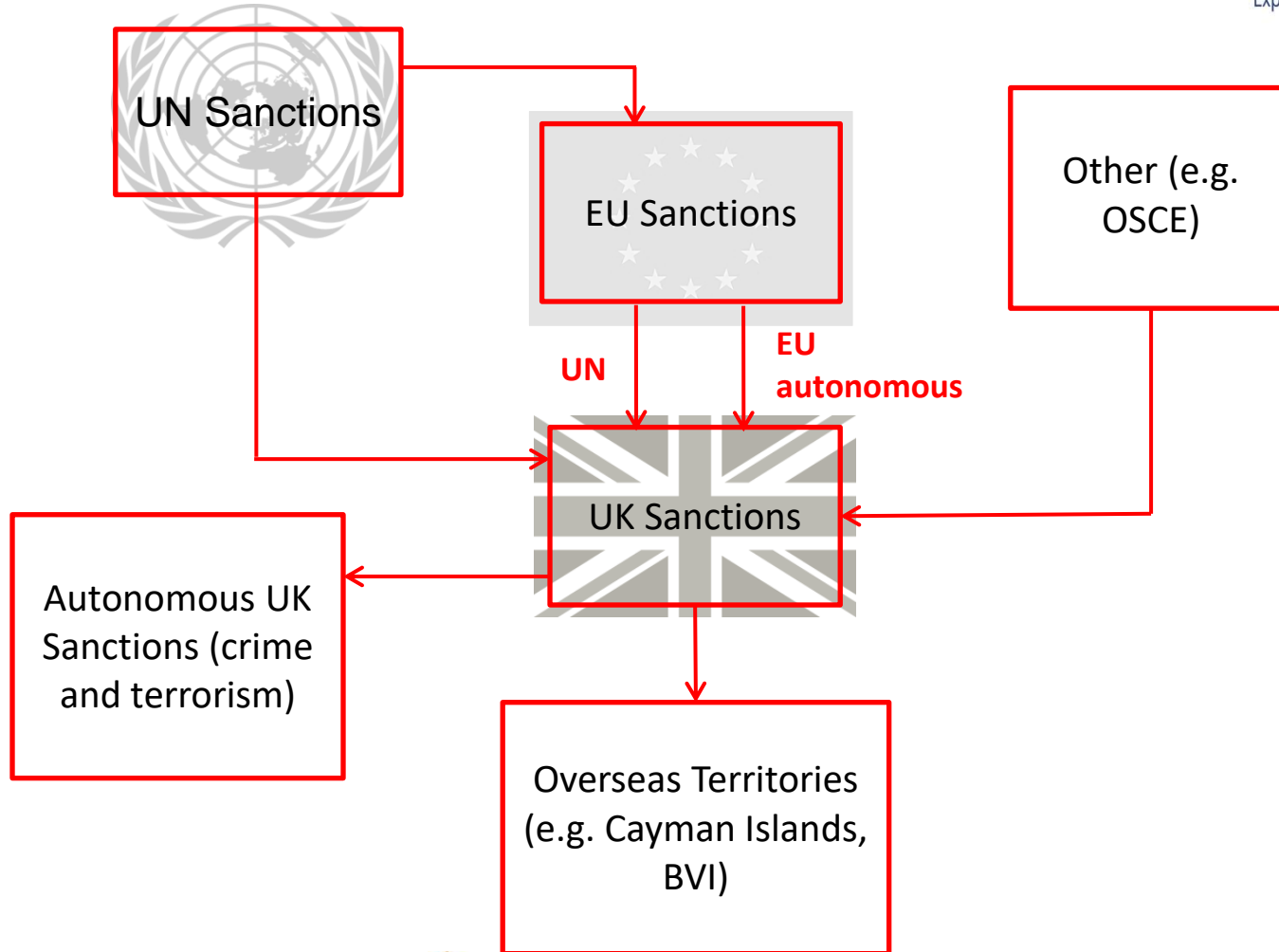
HM Revenue & Customs

Crown Prosecution Service

Financial Conduct Authority

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# Origin of UK Sanctions



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# Who do UK sanctions apply to?



Out of the UK:

- UK incorporated entities
- UK nationals



In the UK:

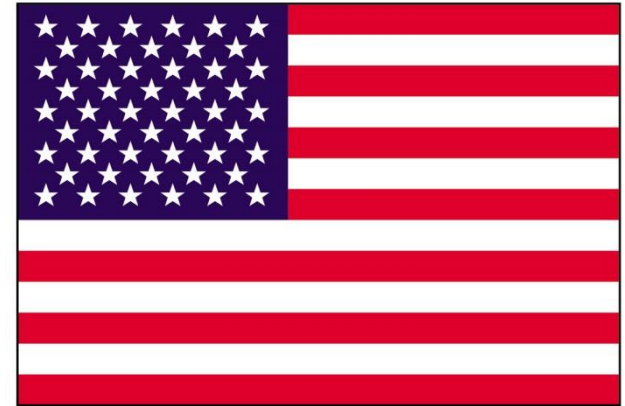
Any individual or entity

“UK nexus”?

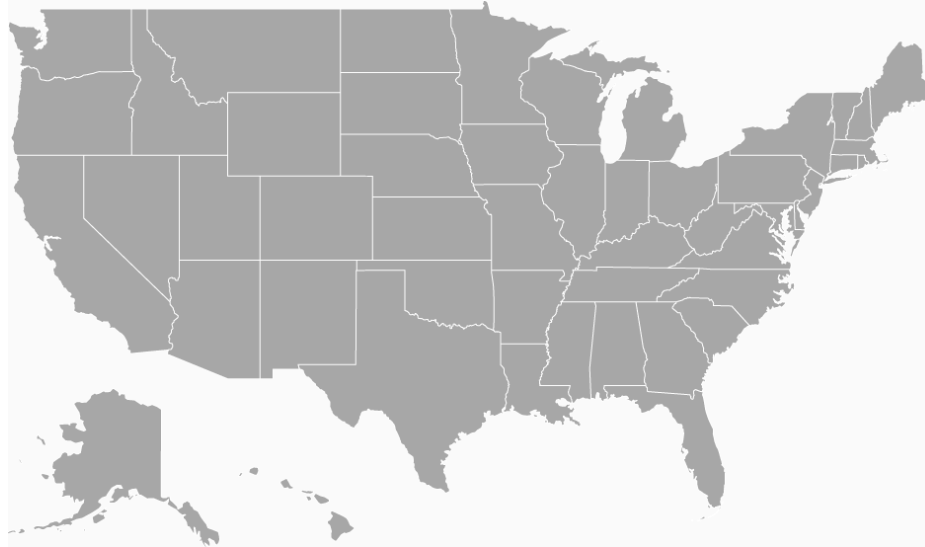
# Overview of US sanctions

## Key points

- Similar kinds of sanctions to EU/UK: asset freezes (Specially Designated Nationals), various restrictions on trade and investment
- “Comprehensive” sanctions: Iran, Syria, Cuba, Crimea, North Korea
- “Primary” sanctions vs “secondary” sanctions
- Risks for non-US persons under “primary sanctions” where there is a US nexus (US, US persons, US-origin items)
- “Facilitation” risk for US persons
- Evasion risk



# Who do US sanctions apply to?



Primary sanctions



Secondary sanctions

- “US Persons”: US citizens and permanent, resident aliens (inc. green card holders), US-incorporated entities, and any person in the US
- For Iran/Cuba: any person “owned or controlled” by US Persons
- Non-US Person where the transaction has a “US nexus” i.e. the involvement of US Persons, the United States and, in some cases US-origin items
- Primarily target the activities of non-US Persons outside the US
- Primarily target Iran, North Korea, Syria and Russia
- No need for a “US nexus”

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# Some Recent Developments

## Sanctions against Russia

- Until August 2017, EU and US sanctions similar:
  - Arms embargo and dual use restrictions
  - Asset freezes
  - Restrictions on Crimea
  - Restrictions on certain oil projects
  - Sectoral sanctions: finance, energy, defence
- August 2017 – Countering America’s Adversaries through Sanctions Act (CAATSA)
  - Strengthening sectoral sanctions
  - Increasing secondary sanctions
- April 2018 – asset freezes targeting certain Russian oligarchs

## Sanctions against Iran

- Joint Comprehensive Plan of Action – certain EU and US sanctions lifted in January 2016
- 8 May – President Trump announced US is withdrawing from JCPOA
- All previous US sanctions will be re-imposed
- 90 / 180 day wind down periods ending in August and November
- Sanctions being re-imposed are mainly “secondary” sanctions
- EU plans to reactive Blocking Regulation

# EU End-Use Controls

## WMD End Use Control

- Unlisted dual-use item exported out of the EU to any country
- Exporter is:
  - informed by competent authority that item is or may be intended for WMD end use
  - aware that item is intended for WMD end use – must inform the authorities
- WMD end-use – note that this includes detection and identification
- UK additional requirement:
  - Exporter suspects WMD end use
  - Exporter must make all reasonable enquiries to satisfy themselves that items not for WMD end use

## Military End Use Controls

- Unlisted dual-use item exported to country under UN, EU or OSCE arms embargo
- Exporter is:
  - informed by competent authority that item is or may be intended for military end use
  - aware that item is intended for WMD end use
- Military end use
  - Incorporation into military item
  - Production, testing, analysis
  - Use of unfinished products in a plant
- Additional control where item will be part of illegally exported military item



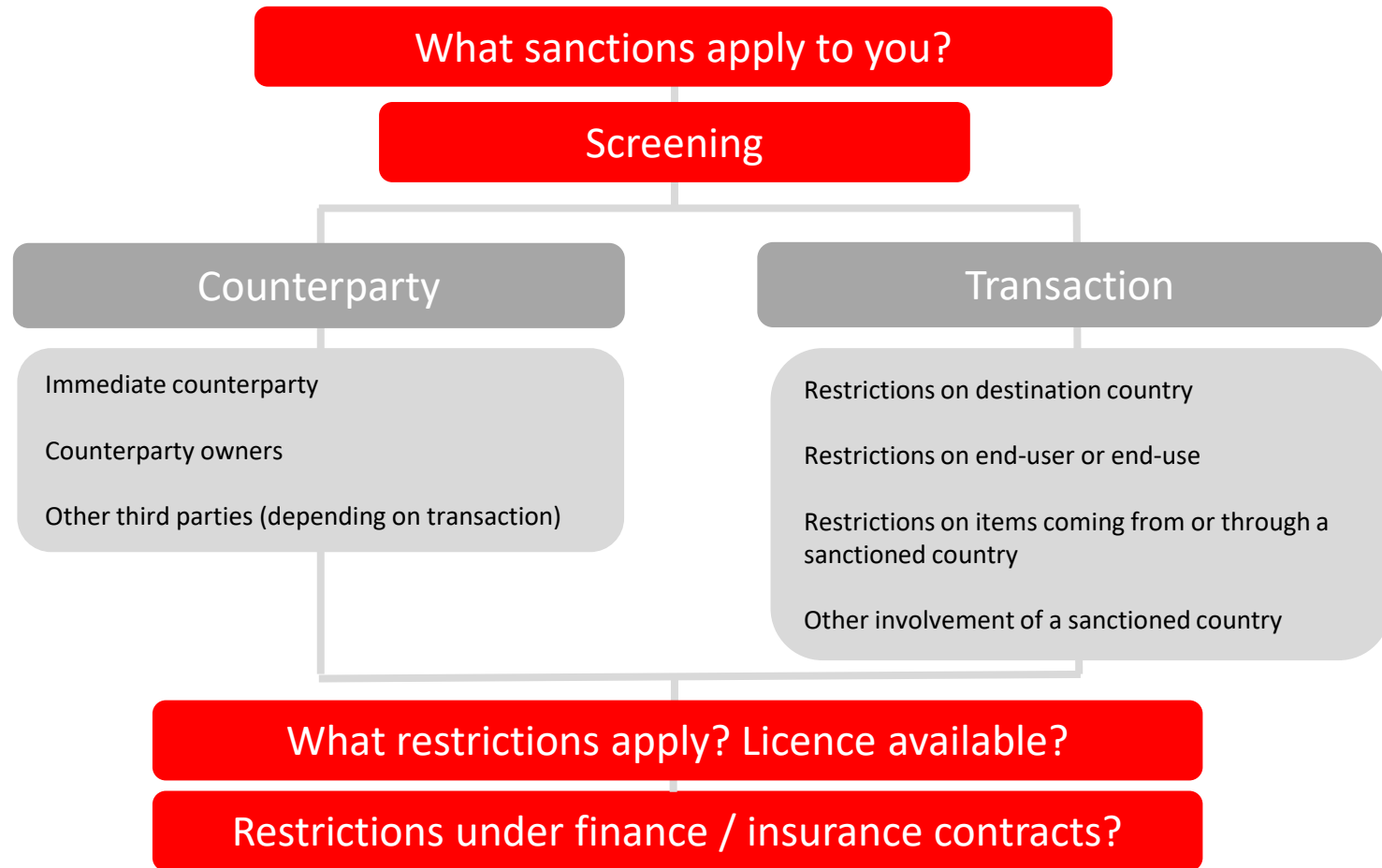
# UK WMD End-Use Controls

Various controls on transfers where there may be WMD end use:

- transfers of dual-use goods, software or technology (listed or not listed) within EU if final destination is outside the EU
- transfers within the UK of software or technology to be used outside EU
- transfers of software or technology between places outside EU, or into EU if final destination is outside EU
- non-electronic transfers of software or technology outside EU, or within EU if final destination is outside EU
- provision of technical assistance outside EU

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# Compliance basics



# Red Flags

## Red Flags

- Transaction not consistent with known business of customer or its counterparty
- Item being exported is incompatible with technical level of country of destination
- Counterparty has links to sanctioned parties (e.g. business relationship, shared directors)
- Counterparty reluctant to offer information
- Unusual payment arrangements between customer and counterparty
- Counterparty account is based in 3<sup>rd</sup> country or is held by 3<sup>rd</sup> party
- No contractual documentation for transaction
- Customer cannot identify end user/use, or inconsistency with stated end user/use
- Abnormal shipping routes

## Evasion / Circumvention

- Wire stripping
- False payment information
- Dealings through intermediary parties that act on behalf of sanctioned parties
- Use of opaque corporate structures (offshore companies, trusts, complex structures)
- Indirect exports through non-sanctioned countries
- Failure to identify true destinations / end-users in commercial orders
- Sham divestments by sanctioned persons

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# Case Study – Part 1

## Red Flags

- Unknown counterparty
- Unusually large order
- Order from an intermediary, not directly
- Customer is a joint venture entity
- Some subsidiaries of SinoSpaceTech involved in manufacturing defence systems, including missile propulsion systems
- Urgency of order
- Unusual payment terms
- Payment not direct from customer
- Shipment through Russia, a sanctioned country

## Follow-up Questions

- Where is Future Technologies incorporated and who are its owners?
- Who are the other joint venture partners in Fushang Aerotech? What percentage of shares does each partner have?
- What evidence does Mr Hu have that he is acting on behalf of Fushang Aerotech? What evidence is there that Fushang Aerotech will be the end user?
- Why does Fushang Aerotech require 7 machine tools, and why so urgently?
- What shipping / freight forwarding companies will Mr Hu use?
- Why are machine tools being transported through Russia?

# Case Study – Part 2

## Additional Red Flags

- Future Technologies incorporated in Cayman Islands
- Customer owned 49% by parties in Russia, including an asset freeze target
- Liu Jianguo – “Head of Special Projects”
- Letter from customer only places order for 6 items
- Is LL Project same as LuxLiner?
- Previous supplier dropped out unexpectedly
- Unclear who will be transporting the items
- Future Technologies’ account in a different country to its countries of incorporation and operations

## Issues to Consider

- EU prohibition on exports of controlled dual-use items to Russia for military end use
- Indirect involvement of asset freeze target
- US secondary sanctions on “significant” transactions with entities in Russian defence and intelligence sectors
- WMD end use control for non-controlled dual-use items