

## UK Sanctions Authority Issues Record Penalty for Russia-Related Sanctions Violations

*The penalty reflects the increasingly active approach in the UK to the enforcement of sanctions breaches.*

The UK's financial sanctions regulator, HM Treasury's Office of Financial Sanctions Implementation (OFSI), has issued a record penalty totaling £20.5 million (roughly US\$25 million) against Standard Chartered Bank (SCB) for breaching the EU prohibition on providing long-term credit to listed Russian financial institutions and their non-EU subsidiaries by extending loans to the Turkish entity DenizBank A.Ş. (DenizBank), which at the relevant time was majority-owned by Sberbank.

OFSI's penalty report (the OFSI Report) can be found [here](#).

This penalty reflects the increasingly active approach in the UK to the enforcement of sanctions breaches and is a rare instance in which the EU sanctions are more restrictive than the corresponding US sanctions, which during the relevant time authorized dealings with DenizBank.

### Background

Since Russia's intervention in Ukraine in 2014, the EU has enacted restrictions on providing loans with a maturity exceeding 30 days to certain Russian financial institutions (including Sberbank), as listed in [EU Council Regulation 833/2014](#) (the EU Regulation),<sup>1</sup> their non-EU subsidiaries, and legal persons acting on their behalf or at their direction. An exemption is available under Article 5(3)(a) of the EU Regulation for loans to finance the export and import of non-prohibited goods between the EU and any third country. This is intended to ensure that legitimate EU trade is not harmed.

The OFSI Report states that, from 2015 to 2018, SCB made 102 loans to DenizBank, which at that time was almost wholly owned by Sberbank. OFSI noted that from April 1, 2017, onward, HM Treasury was authorized under UK law to impose monetary penalties for breaches of financial sanctions under Section 146 of the Policing and Crime Act 2017 (PACA 2017).

While OFSI found that some of the 102 loans were permitted under the Article 5(3)(a) exemption, 70 loans (with an estimated transaction value of over £266 million) had no EU nexus, so did not qualify. Of those 70 loans, OFSI found that 21 (with an estimated transaction value of £97.4 million) occurred after HM Treasury received the power to impose monetary penalties.

## OFSI's Decision

The OFSI Report explains that SCB initially ceased all trade finance business with DenizBank after the EU Regulation was adopted. However, SCB then sought to revive loans to DenizBank in situations that SCB considered to fall within an exemption. OFSI determined that SCB did not make all of these assessments correctly and permitted multiple loans that did not fall within the Article 5(3)(a) exemption.

OFSI assessed the case as “most serious” given the value and repeated occurrences of the breaches, as well as the fact that the loans were made directly available to the sanctioned entity. The OFSI Report indicates that SCB made a voluntary disclosure, conducted an internal investigation, and subsequently cooperated with the UK authorities. Accordingly, OFSI provided a 30% penalty reduction — the maximum reduction for breaches it considers “most serious” under its [internal guidelines](#). OFSI initially imposed two penalties totaling £31.5 million.

## Decision Upon Ministerial Review

Under Section 147 of the PACA 2017, SCB was entitled to a review by a Minister of the Crown of the two penalties imposed by OFSI. At SCB's request, a ministerial review was conducted.

Upon review, the Minister upheld OFSI's decision to impose the penalties, but ordered a further downward adjustment to the quantum of the penalties to a total of £20.5 million. The OFSI Report indicated that the Minister took into consideration that SCB:

- Issued an investigative report
- Did not willfully breach the sanctions regime
- Acted in good faith and intended to comply with the restrictions
- Fully cooperated with OFSI and took remedial steps following the breach

## Conclusion

This is the largest fine that OFSI has imposed to date. In 2019, it issued [three fines](#), for £5,000, £10,000, and £146,341. It issued the fines of £5,000 and £10,000 against [Raphael & Sons plc](#) and [Travelex UK Ltd](#), respectively, for dealing with funds worth roughly £200 belonging to a person sanctioned under the EU's Egyptian sanctions regime. OFSI initially issued a £300,000 penalty against the telecoms business [Telia Carrier UK Ltd](#) (Telia) for indirectly facilitating international phone calls (and accordingly making economic resources available) to the sanctioned Syrian entity SyriaTel. However, Telia exercised its right to Ministerial review, which resulted in the fine being reduced to £146,341 after new evidence emerged that the breaches' value was less than OFSI had believed.

While this is only the fourth fine imposed by OFSI, it is the highest monetary penalty to date, and highlights OFSI's willingness to penalize high-value cases. The case also demonstrates OFSI's implementation of its guidance on reducing penalty amounts by up to 30% for “most serious” cases where voluntary disclosures are made. Further, it suggests that making a voluntary disclosure, conducting an internal investigation, and cooperating with OFSI's investigation are likely to influence both OFSI and any reviewing Minister when determining the amount of the penalty.

The application of EU sanctions to dealings with DenizBank contrasts with the approach in the United States. During the period at issue, US sanctions authorized US persons to engage in transactions with

DenizBank. Although Directive 1 under Executive Order 13662 prohibited US persons from providing certain loans to DenizBank, through Ukraine General License 3 issued on October 6, 2014, the US Department of the Treasury's Office of Foreign Assets Control effectively removed this restriction and allowed US persons to deal with DenizBank from that point forward.

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**Endnotes**

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<sup>1</sup> See Article 5 and Annexes III, V and VI of [EU Council Regulation 833/2014](#).