



**GUIDANCE ON**

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**SANCTIONS  
COMPLIANCE**

**for the AIFC Participants**

## GENERAL

**The AIFC Participants may monitor foreign economic and trade sanctions programs against targeted foreign governments, individuals, groups, and entities (“Persons”).**

**The AIFC Sanctions Compliance Working Group strongly encourages the AIFC Participants, to employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program (SCP).**

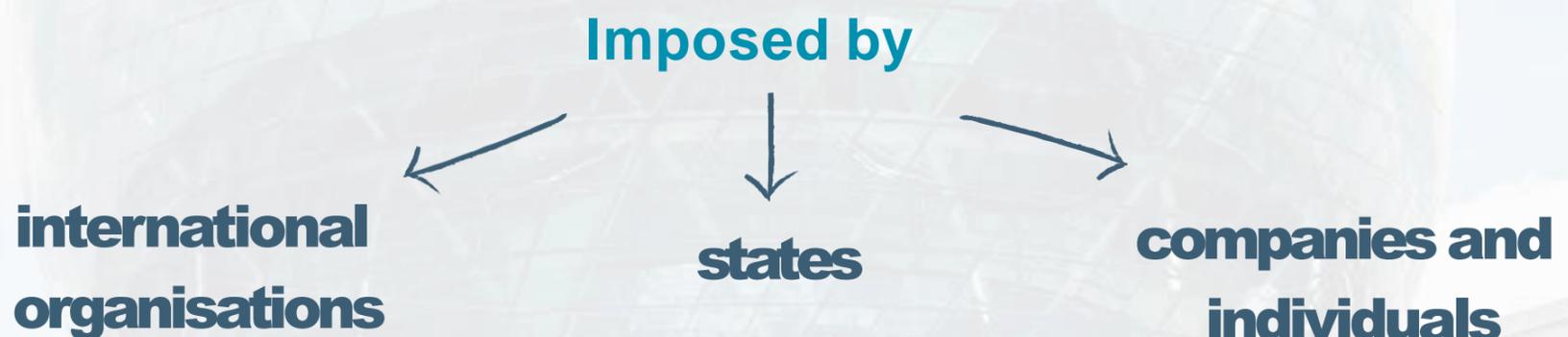
**This Sanctions Compliance Guidance (the “Guidance”) is a non-binding document which is intended to provide the AIFC Participants with a framework for the five essential components of a risk-based SCP. The AIFC Participants are recommended to review the documents issued by the Working Group on Sanctions Compliance Matters to reassess and enhance their respective SCPs, when and as appropriate.**

**In case of any questions, please contact**

**[LegalDevelopment@aifc.kz](mailto:LegalDevelopment@aifc.kz)**

# SANCTIONS

**Sanction** means a restrictive measure against a government, an organisation, a state body, a legal person, or a natural person to force it to behave in a particular way or as a punishment for not doing so.



**Special permit licenses for persons subject to sanctions may be issued as exceptions**

# SANCTIONS

**The explanations about the nature of sanctions, their types, subjects, authorised bodies, exceptions, licences, enforcement and many other useful information can be found at the following links:**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1100991/General\\_Guidance\\_-\\_UK\\_Financial\\_Sanctions\\_\\_Aug\\_2022\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1100991/General_Guidance_-_UK_Financial_Sanctions__Aug_2022_.pdf)

[home.treasury.gov/system/files/126/virtual\\_currency\\_guidance\\_brochure.pdf](https://home.treasury.gov/system/files/126/virtual_currency_guidance_brochure.pdf)

[www.millerchevalier.com/sites/default/files/resources/OFAC-Economic-Sanctions-Enforcement-Guidelines.pdf](https://www.millerchevalier.com/sites/default/files/resources/OFAC-Economic-Sanctions-Enforcement-Guidelines.pdf)

[ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/overview-sanctions-and-related-tools_en)

## LEGAL OBLIGATIONS

The AIFC Participants' vision and approaches regarding sanctions compliance must be in accordance with the United Nations Security Council's resolutions, the legislations of the Republic of Kazakhstan and external policy.

If the AIFC Participants are involved in operations conducted in a country other than the Republic of Kazakhstan, the AIFC Participants maintain restrictions under the sanctions laws and regulations of the relevant country as well.

**UK sanctions regime:**

**<https://www.gov.uk/government/collections/uk-sanctions-regimes-under-the-sanctions-act>**

**US sanctions regime:**

**<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>**

**EU sanctions regime:**

**[https://www.eeas.europa.eu/eeas/european-union-sanctions\\_en](https://www.eeas.europa.eu/eeas/european-union-sanctions_en)**

**UN**

**sanctions**

**regime:**

**<https://www.un.org/securitycouncil/sanctions/information>**

## COMPONENTS OF COMPLIANCE

**While each risk-based SCP will vary depending on a variety of factors—including the AIFC Participant’s size and sophistication, products and services, customers and counterparties, and geographic locations—each program may be predicated on and incorporate at least five essential components of compliance:**

- 1 management commitment**
- 2 risk assessment**
- 3 internal controls**
- 4 testing and auditing**
- 5 training**

**More details of best practice on the proposed approaches may be found at the following link: [<ofaclawyer.net/compliance/programs/building-a-program/>](https://ofaclawyer.net/compliance/programs/building-a-program/).**

## SANCTIONED PERSONS

**Persons listed in one or more of sanctions lists of the UN, the US, the EU, and the UK are regarded as sanctioned Persons.**

**It is important to keep in mind the “50% rule”\*. Any contract, deal, project, support to persons falling with the “50% rule”, including through or by subsidiaries or affiliates, may be negatively considered by the U.S., the EU and the UK and entail secondary sanctions to Kazakhstan, the AIFC, the AIFC Participant or separate legal and natural persons.**

**The AIFC Participant is recommended to address Chapter 4 of the UK General Guidance at the following link to clarify the basic issues connected to “50% rule”.**

**[assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1062452/General\\_Guidance\\_-\\_UK\\_Financial\\_Sanctions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1062452/General_Guidance_-_UK_Financial_Sanctions.pdf)**

## SANCTIONS SCREENING SOFTWARE OR FILTER FAULTS

Many organisations conduct screening of their customers, supply chain, intermediaries, counterparties, commercial and financial documents, and transactions in order to identify prohibited locations, parties, or dealings. Highly recommended software as [Refinitiv WorldCheck](#), [Kompra](#), [DowJones](#) are recommended to be used for automation of the screening process.

However, please note that software and software providers may fail to update their sanctions screening software to incorporate updates to the SDN List or SSI List, fail to include pertinent identifiers such as SWIFT Business Identifier Codes for designated, blocked, or sanctioned financial institutions, or may not account for alternative spellings of prohibited countries or parties—particularly in instances in which the person is domiciled or conducts business in geographies that frequently utilise such alternative spellings (i.e., Habana instead of Havana, Kuba instead of Cuba, Soudan instead of Sudan, etc.).

## USEFUL LINKS

**For manual sanctions check the following links are available:**

**[UNSC: < www.un.org/securitycouncil/content/un-sc-consolidated-list >](http://www.un.org/securitycouncil/content/un-sc-consolidated-list)**

**US: < [sanctionssearch.ofac.treas.gov](http://sanctionssearch.ofac.treas.gov) >**

**EU: < [www.sanctionsmap.eu/#/main](http://www.sanctionsmap.eu/#/main) >**

**UK:**

**< [www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets](http://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets) >**

## APPROACHES

**A risk zone is determined based on a threat of secondary and/or reputational sanctions to the AIFC Participant, the severity of potential consequences, the likelihood of a hazard occurring, mitigating factors, and impact on the AIFC Participant's mission.**

**The AIFC Participant is recommended to follow the following approaches:**



### High risk

- (a) any operation with sanctioned External persons needs to be stopped, suspended, or limited;**
- (b) any operation with persons falling under the “50% Rule” needs to be stopped, suspended, or limited.**



### Medium risk

- (a) any operation with non-sanctioned External persons not under Sanctions but residents of countries associated with Sanctions may be maintained with caution;**
- (b) any operation with External persons not on the sanctions list but closely working with sanctioned persons may be maintained with caution;**
- (c) any operation with External persons with potentially high risks of being included in the sanctions list(s) may be maintained with caution.**



### Low risk

- (a) any operation with other External persons may be maintained.**

## TRAINING

**Educational courses, trainings, workshops, and other events related to sanctions and sanctions compliance organised by the AIFC Academy of Law are highly recommended for the AIFC Participants, their employees, clients etc.**

**Further details on the AIFC Academy of Law may be found at the following link:**

**[<aol.aifc.kz>](mailto:aol.aifc.kz) and**

**[www.linkedin.com/company/aifc-academy-of-law/?originalSubdomain=kz](https://www.linkedin.com/company/aifc-academy-of-law/?originalSubdomain=kz)**



**Academy of Law**

## SUMMARY: TO DO LIST

**Management commitment (supply with adequate resources including in the form of human capital, expertise, information technology, relevant database(s) and other resources)**

**Development of internal policies, recommendations, questionnaires, and other documents (determination of approaches, sanctions screening mechanisms, actions in case of non-compliance etc.)**

**Conducting sanctions screening (search for information by requesting foundation documents; corporate structure, analysing official website and collect necessary information, providing a 'sanctions questionnaire'; conducting screening**

**by checking an organisation/individual itself, final beneficiary(-ies), members of the BoD, MB etc., key partners)**

**Risk management (evaluation of risks and have a proper action plan in case of breach of the internal policy, secondary sanctions, reputational damage, negative results of audit etc.)**

**Regular trainings for employees on sanctions compliance**

*Disclaimer: This document is designed to assist AIFC Participants to be familiar with sanctions compliance matters. Neither this document nor any of the answers to the questions in this document constitutes legal advice and should not be acted upon as if advice had been given. If there is any inconsistency between any statement in this document and the relevant AIFC Regulations and Rules or associated Guidance, the AIFC Regulations, AIFC Rules and Guidance prevail. AIFC Participants should, where they consider it necessary, obtain their own legal advice in relation to their specific situations.*