



# Dealing with targeted sanctions

Law firm Carter-Ruck provides practical advice for businesses and individuals subject to asset freezes and travel bans.

**B**usinesses and individuals based in the Middle East and operating in many different fields have increasingly found themselves unexpectedly subject to targeted sanctions. This is a trend which is set to continue as targeted sanctions are deployed more and more frequently. These sanctions are imposed by the United Nations, the European Union, and individual sovereign states as a way of achieving specific foreign policy objectives, and ultimately securing international peace and security. They are 'targeted' in the sense that they are imposed upon particular entities or individuals. The purpose of sanctions imposed upon businesses and individuals in the Middle East has in particular been to combat terrorism and the support and financing of it.

The impact of targeted sanctions can be devastating. The subjects of sanctions have their assets frozen without notice, as a result of which businesses can be effectively prevented from operating, and individuals from living their lives. There are generally limited exceptions available to allow funds

to be used, for example, to meet basic needs or pay for medical treatment or legal advice, but the sanctioned business or individual must apply for a licence from the appropriate domestic authority to permit these limited uses of frozen funds. A travel ban may also be imposed, preventing a sanctioned individual from entering or travelling through territory where the sanctions apply.

## Challenging sanctions

There are various avenues available for challenging the imposition of targeted sanctions. One option is to commence litigation in the domestic courts, if judicial review of a State's administrative decisions is available as it is, for example, in the UK and the US. At the UN one can submit a petition to the UN Ombudsperson who has responsibility for independently reviewing petitions for delisting from certain categories of those sanctioned. Entering into a dialogue with the authority that has imposed the sanctions, such as domestic government agencies or regional or international organisations in an attempt

to address their concerns, has also proved successful.

The case of Sheikh Yassin Kadi provides examples of successful challenges to sanctions. Sheikh Yassin is a Saudi Arabian businessman who had a worldwide asset freeze and travel ban imposed upon him by the UN. As a result he was also sanctioned by the EU, as well as by individual states. He successfully challenged the imposition of EU sanctions upon him by making an application for annulment in the Court of Justice of the European Union in Luxembourg. The UN sanctions against him were lifted following a delisting petition made on his behalf to the UN Ombudsperson. There followed the removal of all other sanctions to which he was subject, including, finally, those imposed by the US which were removed after a period of engagement with the US Treasury Department.

There is thus often much that can be done to have sanctions lifted; the key is to instruct lawyers with experience in challenging sanctions immediately upon their imposition. Time limits for legal challenges of this nature are typically short, so time is of the essence.

### **Post delisting: not business as usual**

Being delisted is not, unfortunately, the end of the story. Businesses, other entities and individuals who have had sanctions against them lifted often find that, far from being able to carry on with their lives and businesses as before, new problems arise.

Aside from the obvious difficulties of recovering from a period of long-term business interruption, businesses and individuals often find that their reputations are left severely damaged by sanctions, and that this has a negative impact on their ability to conduct business and take part in their community and society as a whole, even after sanctions have been removed.

As just one example, banks are wary about dealing with people or entities which

have been the subject of sanctions, often refusing to conduct transactions involving them or even closing existing accounts. There is little that can be done if a bank wishes to terminate a client relationship, since they are private institutions and can pick and choose their customers.

Because sanctions are political, rather than legal, instruments imposed after any finding of wrongdoing, the allegations behind them often remain unsubstantiated but without any final determination that they were incorrect. This is a highly unsatisfactory situation and one which requires proactive steps to improve on the part of the business or individual and their advisers.

### **Rebuilding reputation**

The focus once sanctions are removed should be on the rehabilitation of the reputation of the sanctioned business or individual. This can be done via press releases to, or interviews with, the media. It is also important to look at the reasons why the sanctions were imposed in the first place and to introduce stricter controls by way of corporate governance and due diligence. Some sanctions have been imposed upon those in the Middle East because of a fundamental lack of understanding by those in other countries of the way business is done in the region. Those of our clients who have looked objectively and in detail at how their operations could be misinterpreted or misused and set about trying to minimise such risks have had the most success in terms of re-establishing their businesses and reputations after the lifting of sanctions. It is also vitally important to consider whether association with certain other businesses or individuals could be misinterpreted. The use of investigation agencies is one way in which businesses and individuals can protect themselves against the risk of unknowingly associating with those who attract negative attention from the authorities ■



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### **ABOUT CARTER-RUCK**

Carter-Ruck represents individuals, businesses and charities in relation to the imposition of targeted sanctions upon them and the restoration of their reputations following their removal. In this context, Carter-Ruck has acted for Yassin Kadi since the imposition of sanctions upon him, through to the lifting of all sanctions against him anywhere in the world.