

BankBCLP

BANKING BITES – APRIL 19 2022

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SUMMARY

Welcome to Banking Bites! This is our short summary flagging key developments in the UK that we hope will inform your activities in your market.

This edition covers:

1. Documents produced for UK employment court proceedings could be disclosed
2. UK Government changes the list of high risk third countries
3. UK regulators focussed on cryptoasset exposure
4. UK Government to introduce second Economic Crime Bill
5. Further Russian individuals and industries have become the target of UK and US sanctions
6. Lessons Learned: US and UK authorities interested in the use of non-firm approved messaging platforms for business communications

If you have any questions or feedback, please get in touch.

1. DOCUMENTS PRODUCED FOR UK EMPLOYMENT COURT PROCEEDINGS COULD BE DISCLOSED

In a recent decision by the UK's Employment Appeals Tribunal involving a whistleblower, the tribunal held that documents produced in the course of proceedings could be handed over to a newspaper, on its request. The case was fairly fact specific but you may want to discuss how this might impact your internal whistleblower policies. For more information, contact [Polly James](#).

2. UK GOVERNMENT CHANGES THE LIST OF HIGH RISK THIRD COUNTRIES

With effect from 29 March 2022, the list of high risk third countries for the purposes of the UK's anti-money laundering regime changed slightly. You may wish to discuss how this affects your AML/CTF policies.

3. REGULATOR FOCUS ON CRYPTOASSET EXPOSURE

On 24 March 2022, the UK's financial services regulators (the FCA and PRA) coordinated their efforts to remind regulated entities of their obligations when interacting with or exposed to cryptoassets and related services. This is in response to the publication by the Bank of England of its Financial Stability in Focus report and summary of responses to its Discussion Paper on New Forms of Digital Money. The expectation is that firms will take on the role of setting out clearly what is not and what is regulated for their customers. The FCA noted a number of considerations that regulated firms dealing in cryptoassets should consider. These included: clarity with customers, appropriate checks and controls, prudential considerations and international co-operation. The PRA wrote an open letter to CEOs highlighting the various steps to be taken in order to comply with regulatory obligations with regards to cryptoassets. These included having strong risk controls, notably ensuring that a PRA-approved individual is actively involved in reviewing and signing off risk assessment framework for businesses with crypto-exposure.

Where firms are doing business in the UK with cryptoasset businesses, they are expected to be able to adequately identify, assess and manage the risks and exposures from cryptoassets.

4. GOVERNMENT TO INTRODUCE SECOND ECONOMIC CRIME BILL

The UK Government plans to introduce a second Economic Crime Bill this year and has expressed intentions to use this to "prevent the abuse of limited partnerships, create new powers to seize crypto-assets from criminals and bring in measures to give businesses more confidence to share information on suspected money laundering." We expect this to be of significant interest to all firms with UK operations and shall be monitoring developments.

5. FURTHER RUSSIAN INDIVIDUALS AND INDUSTRIES HAVE BECOME THE TARGET OF UK AND US SANCTIONS

The UK has targeted a number of key Russian industries with economic sanctions. These industries include Russian Railways and defence company Kronshtadt, the main producer of Russian drones. A number of Russian banks have also been targeted. We have seen a number of individuals also targeted by the sanctions including the Russian Foreign Minister's step-daughter and the *de facto* "mayor" of Melitopol by the Russian military. Several of the recent designations were introduced under the new urgent procedure under the newly passed Economic Crime (Transparency and Enforcement) Act 2022. This means that they apply for a period of 56 days, unless the minister certifies that the threshold conditions continue to be met before the end of that period. Several

general licences have been granted in the UK to enable transactions to be wound down. Please contact [Chris Bryant](#) or [Sonja Hainsworth](#) for more information on UK sanctions regimes.

6. LESSONS LEARNED: USE OF NON-FIRM APPROVED MESSAGING PLATFORMS FOR BUSINESS COMMUNICATIONS

We are seeing increasing interest from UK and US regulators in the use of non-firm approved messaging platforms, such as WhatsApp, particularly from US authorities investigating employees' behaviour. Notably, such authorities are seeking copies of such messages from personal phones and their ambit of interest is wider than might initially be imagined. Whilst many firms will have clear policies and procedures on the use of unapproved, we recommend: (i) taking every opportunity to reinforce that message; (ii) ensuring that senior leadership in business teams are also personally reminded of their responsibility to set an example by their own actions; and (iii) encouraging escalation in the event that employees consider firm-approved communications platforms could be improved and/or identify use of non-firm approved platforms.

In this context, we now have extensive experience of responding to and managing requests from UK and US authorities for data from personal phones. Please do get in contact with [Oran Gelb](#) should you wish to discuss further.

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MEET THE TEAM



Polly James

London

polly.james@bclplaw.com

[+44 \(0\) 20 3400 3158](tel:+442034003158)



Chris Bryant

London / Brussels

chris.bryant@bclplaw.com

[+44 \(0\) 20 3400 2423](tel:+442034002423)



Sonja Hainsworth

London

sonja.hainsworth@bclplaw.com

[+44 \(0\) 20 3400 3713](tel:+442034003713)



Oran Gelb

London

oran.gelb@bclplaw.com

+44 (0) 20 3400 4168

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