

ADVISORY | INDUSTRY INFORMATION

Cayman Islands and BVI Sanctions Update – New Licensing Grounds for Russia Related Divestments

New specific licensing grounds available under Cayman Islands and BVI Russia sanctions will pave the way for Cayman Islands and BVI investment funds and other entities to divest their frozen assets in Russia as well as remove sanctioned interests from their ownership structures.

The UK has introduced new divestment specific licensing grounds in its Russian sanctions regulations which came into effect on 15 December 2023. The relevant Order in Council to extend these new grounds to British Overseas Territories, including the Cayman Islands and the BVI was made on 13 March 2024 and comes into force on 14 March 2024.

The new licensing grounds enable a Cayman Islands or BVI entity to apply for a specific licence to allow it:

- (a) to undertake a "relevant transfer" i.e. a transfer of funds or economic resources located in Russia and owned, held or controlled by the Cayman Islands or BVI entity, in order to enable that entity to divest itself (either wholly or partially) of those funds/economic resources, where the funds or resources are transferred to a the Government of Russia or a designated person; or
- (b) to acquire an interest in that Cayman Islands or BVI entity from a designated person or the Government of Russia, provided that the sole consideration for the acquisition is a transfer of funds, and the funds are credited to a frozen account in the Cayman Islands, BVI or a jurisdiction with similar sanctions against Russia.

In addition, these new licensing grounds permit a Cayman Islands or BVI entity to do anything to enable another person (B) to undertake a "relevant transfer" of funds or economic resources located in Russia which is owned, held or controlled by B to enable B to divest itself of those funds or economic resources wholly or partially. Similarly it allows a Cayman Islands or BVI entity to enable B to acquire an interest in itself from a designated person or the Government of Russia, where the proceeds are held in a frozen account in the Cayman Islands, BVI or another jurisdiction with similar sanctions.

These divestment licensing grounds will apply to prohibitions in relation to asset freezing requirements, loans and credit arrangements, dealing with transferable securities or money market instruments correspondent banking relationships and processing payments, provision of financial services relating to foreign exchange reserve and asset management, and provision of trust services.

While only a tiny number of Cayman Islands and BVI entities have experienced sanctions related issues, typically due to either a portfolio investment or an investor's ultimate beneficial owner becoming designated post-investment, for those impacted it has been difficult to identify a ground to obtain a specific licence to divest such investor or investment.

The introduction of these new licensing grounds are limited to permitting divestment in the form of a "relevant transfer" and they also do not permit a third party Cayman Islands and BVI entity or Cayman Islands and BVI entity with an existing interest in the relevant Cayman Islands and BVI entity with a sanctioned interest holder to buy out or acquire the interest from the Government of Russia or a designated person. It only envisages the acquisition by a Cayman Islands and BVI entity of a sanctioned interest in



itself. However, there is now a clear licensing ground for Cayman Islands and BVI entities, including investment funds, to seek a specific licence from the Governor of the Cayman Islands via the Financial Reporting Authority ("FRA") and the Governor of the BVI respectively, which allows them to divest themselves of any investment or other ownership interests held by the Government of Russia or designated persons. This is certainly a welcomed development as the current regulations do not permit dealings in these sanctioned investments or other ownership interests and there is no other licensing ground available to permit such dealings.

The ability for Cayman Islands and BVI investment funds and other entities to remove sanctioned shareholders, limited partners or other investors from their ownership structure will pave the way for these entities to operate their businesses without the risk of becoming sanctioned and their assets being frozen. This will also allow for the efficient wind down of the entity when the investment strategy or business has come to an end.

How can Walkers help?

Walkers' Regulatory & Risk Advisory Group is the leading expert on Cayman Islands and BVI sanctions and are up to date with the latest legal and market developments. In particular, Walkers has extensive experience in applying to the relevant Governor's Office and the FRA for specific licences and advises clients on how to effectively deal with the regulator. Walkers can also assist with all aspects of Cayman Islands and BVI sanctions compliance, including advice on the application of sanctions; preparation and submission of reports and licence applications to the relevant Governor's Office and the FRA; review of contractual arrangements; audit of sanctions compliance arrangements; training and preparation and review of policies and procedures. Walkers' affiliate, Walkers Professional Services, can assist with sanctions screening on an outsourced basis.

Further information

For more information, please get in touch with your usual contact at Walkers or any of the individuals in your region listed below:

Legal Services



Lucy Frew
Partner
+1 345 814 4676
lucy.frew@walkersglobal.com



Andrew Howarth
Partner
+1 345 814 4561
andrew.howarth@walkersglobal.com



Ian Mason
Partner
+1 345 814 4600
ian.mason@walkersglobal.com



Colm Dawson
Partner
+852 2596 3357
+1 345 938 6384
colm.dawson@walkersglobal.com



Sara Hall
Partner
+44 (0)20 7220 4975
sara.hall@walkersglobal.com



Louise Denman
Senior Counsel
+971 50 105 0594
louise.denman@walkersglobal.com



Juliana Tang
Senior Counsel
+1 345 814 4612
juliana.tang@walkersglobal.com



Benjamin Twidle
Senior Counsel
+44 (0)20 7220 4999
benjamin.twidle@walkersglobal.com



Iona Wright
Senior Counsel
+1 284 852 2233
iona.wright@walkersglobal.com



Jason Hung
Counsel
+852 2596 3355
jason.hung@walkersglobal.com



Marco Lam
Counsel
+65 6603 1667
marco.lam@walkersglobal.com

Professional Services



Steven Manning
Chief Executive Officer
+1 345 814 7612
steven.manning@walkersglobal.com



Daniel Booth
Managing Director, Asia and Middle East
+852 2596 3334
daniel.booth@walkersglobal.com



Nicholas Quin
Managing Director, Americas
+1 345 914 4295
nicholas.quin@walkersglobal.com



Dorothy Scott
Managing Director, Americas
+1 345 914 4202
dorothy.scott@walkersglobal.com



Gary McLean
Global Head of AML Regulatory Services
+1 345 814 7649
gary.mclean@walkersglobal.com



Nick Reid
Director
+1 345 814 6862
nick.reid@walkersglobal.com