MACFARLANES

BANKING AND FINANCE DISPUTE RESOLUTION

LITIGATION, ARBITRATION, INVESTIGATIONS AND FINANCIAL CRIME

QUARTERLY UPDATE

Welcome to the latest issue of our Quarterly Update, in which we look at some of the recent highlights and developments in banking and finance disputes and financial crime.

A common topic underlying a number of reported decisions in the first quarter of 2016 has been past business reviews (PBRs). This can be seen, in particular, in cases involving allegations of mis-selling of interest rate hedging products (IHRPs) to small and medium-sized enterprises and manipulation of the LIBOR interest rate benchmark. The former allegations are playing out against a back-drop of several on-going PBRs across the City, whilst the latter are additionally framed by the latest public prosecution of individuals accused of manipulating LIBOR.

At the same time, developments in financial crime have seen the lifting of a number of the sanctions imposed upon Iran, and the Commercial Court's lifting of an embargo on the latest case about the implications of a financial institution reporting suspicious activity on client accounts. To cap it all, the Serious Fraud Office (SFO) has secured its first conviction of a commercial organisation for failing to prevent bribery.

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NOTABLE CASES AND DEVELOPMENTS

SUITABILITY FOR THE FINANCIAL LIST AND THE SHORTER TRIALS SCHEME

In the last update, we reported on the introduction of the new Financial List. In the recent case of *Property Alliance Group v Royal Bank of Scotland plc* [2016] EWHC 207 (Ch), where the Royal Bank of Scotland's (RBS) application to transfer the proceedings to the Financial List was contested (but ultimately successful), the Court provided guidance on its approach to transfer requests. The Court considered the following factors to be particularly influential:

i. the extent to which the case concerns matters of general significance to the financial markets or the need for the judge to have particular expertise – given that the Financial List is deliberately limited to a small number of judges who have expertise in the law applicable to financial markets, and are across important developments in the sector;

ii. the relative importance of the matters of financial market significance: for example, whether the claim is a test or a lead case;

iii. whether a Financial List judge is available to conduct both the pre-trial review and the trial; and

iv. whether transfer to the Financial List would disrupt the trial timetable.

Whilst the value of the claim did not bring it within "Financial List" claims pursuant to Civil Procedure Rules (CPR) Part 63A (as it is less than £50m), the Court found that the claim satisfied the other criteria:

i. it required particular expertise in the financial markets; and

ii. it raised issues of general importance in the financial markets.

Meanwhile, Q1 2016 also saw the first reported transfer of a case to the Shorter Trials Scheme (the Scheme), a pilot scheme also established as of 1 October 2015. Mr Justice Birss held that though not specified in the relevant Practice Direction for the Scheme (PD51N), the Court does have the power to transfer an existing case into or out of the Scheme as appropriate (*Family Mosaic v Peer Real Estate Ltd* [2016] EWHC (Ch)). Cases of the following nature will not usually be suitable for the Scheme:

i. where there are allegations of fraud or dishonesty;

ii. where extensive disclosure, witness or expert evidence is required;

iii. where there is a multiplicity of issues or parties (save for Part 20 counterclaims for revocation of an IP right);

iv. cases in the Intellectual Property Enterprise Court; or

v. public procurement cases.

The new Financial List, and the Shorter and Flexible Trial Schemes, is designed to stream-line business litigation before the UK courts and to facilitate simpler, cost effective proceedings before judges with relevant expertise. Only time will tell.

AMENABILITY OF A SKILLED PERSON TO JUDICIAL REVIEW

In *R (on the application of Holmcroft Properties Limited) v KPMG LLP* [2016] EWHC 323, the Divisional Court dismissed Holmcroft's attempt to judicially review KPMG's role as a Section 166 (FSMA) Skilled Person (or independent reviewer), in connection with a FCA-mandated past business review carried out by Barclays into its historic sales of IRHPs. Both Barclays and the Financial Conduct Authority (FCA) were interested parties in the case.

The Court held that KPMG's duties did *"not have sufficient public law flavour to render [the firm] amenable to judicial review"* in its role as a Skilled Person, though notably the judges did admit that they *"had not found this question easy to resolve"* and that there were *"certain pointers in favour of amenability"*.

The following factors shifted the balance in favour of the firm's duties not being of a public law nature:

i. KPMG's appointment was a result of a voluntary agreement between the FCA and Barclays (i.e. participation in the redress scheme was voluntary and not imposed by the FCA); and

ii. KPMG's powers were conferred by a private contract between it and Barclays.

In any event, even if KPMG's role had been amenable to judicial review, the Court decided that the extent of any public law duties owed would have to be consistent with the

contractual arrangements in place between it and Barclays and would therefore be limited. Public law *"could not impose duties which undermined the basis of the private contractual arrangements."* The Court also considered that even if KPMG had been found amenable to judicial review by owing the public law duty alleged, there had been no unfairness to Holmcroft such that there could not have been a breach of duty.

Importantly, the judgment states that *"[t]he question of whether KPMG is amenable to judicial review does not depend upon the particular facts in the claimant's case but rather on the proper characterisation of the redress scheme and its role within it."* The clarification in this case of a Skilled Person's role, is a welcome outcome not only for the many firms which take on such appointments, but also the FCA and the Prudential Regulation Authority (PRA), both of which have increasingly deployed this statutory tool to achieve their regulatory objectives in recent times.

MIS-SELLING

There have been a number of decisions in the last few months arising out of the sale of IRHPs by banks before the financial crash (see e.g. *Sivagnanam v Barclays Bank* [2015] EWHC 3985 (Comm) (15 December 2015) and *Thornbridge v Barclays Bank* [2015] EWHC 3430 (QB) (27 November 2015)). Of comfort to financial institutions is the fact that the courts, in taking a strict approach to claims by consumers in relation to such products in the context of PBRs, have found in their favour.

In the most recent case of *CGL Group v Royal Bank of Scotland* [2016] EWHC 281 (QB), the Court held that RBS did not owe a common law duty of care to the customer arising out of the existence of a FCA-mandated PBR.

CGL purchased two IRHPs from RBS in July 2006; a base rate collar and an amortising base rate swap. It started making complaints about these products in around 2009.

In November 2013, RBS confirmed that the products would be reviewed as part of a FCA-mandated PBR. In August 2014, CGL was informed that it was eligible for redress on the collar trade but not the base rate swap. In 2015, CGL issued proceedings against RBS, which RBS sought to strike out on the basis that limitation had expired. CGL responded that it only had the requisite knowledge when media reports were first published about the mis-selling review in June 2012. It also sought to amend its claim to include a claim that RBS owed it a common law duty of care to:

i. conduct the PBR in accordance with undertakings given by RBS to the FCA;

ii. provide CGL with fair and reasonable redress; and

iii. conduct the review with reasonable care and skill.

On limitation, His Honour Judge Bird found that, by November 2009, CGL was in possession of the knowledge required for bringing a claim in damages. It had more than a suspicion that it had been the victim of mis-selling.

On the application to amend, HHJ Bird found that there was no real prospect of a successful claim based upon a common law duty of care, in the terms in which CGL wished to plead it. Clause 9 of RBS' settlement agreement with the FCA (under which the PBR was conducted) expressly excluded the rights of third parties. RBS had made it crystal clear that it was not willing to accept liability to customers for carrying out the review. The customer's protection in the conduct of the review lay with the statutory duty of the Skilled Person overseeing the review.

In addition, the circumstances in which a customer may rely upon the obligations a bank owes to its regulator are limited. To find a duty of care here would *"be to drive a coach and horses through Parliament's clearly expressed will."*

COURT OF APPEAL REFUSES REQUEST TO AMEND ARISING OUT OF ALLEGATIONS OF LIBOR MANIPULATION

In *Deutsche Bank AG v Unitech Global Ltd and Unitech Limited* [2016] EWCA Civ 119, the Court of Appeal upheld the refusal of permission for a borrower and its guarantor (Unitech Global Limited (UGL) and Unitech Limited (the Unitech parties)) to amend their defences to plead various additional defences, in claims to recover sums under a US $150m credit facility agreement and an interest rate swap agreement (the Agreements). The application to amend arose from publicity given to allegations of manipulation of LIBOR by a number of banks, including the Claimant lender Deutsche Bank (DB).

The Unitech parties had already advanced various defences to claims by DB arising from the credit facility agreement, and sums allegedly due to it under the swap agreement. The additional defences, which they wished to plead included:

i. that the LIBOR rate referred to in the Agreements had been manipulated in violation of Article 101 of the Treaty on the Functioning of the European Union

(and the equivalent UK legislation in Section 2 of the Competition Act 1998); and

ii. that even if there was no manipulation, LIBOR-setting was itself an unlawful information exchange in violation of Article 101 and Section 2 because it required each panel bank to state at what rate of interest it believed it could borrow, thereby revealing commercially sensitive information as to its own strength and creditworthiness.

The Court of Appeal held that there was no real prospect that the Agreements would be deemed to be void on account of any alleged breach of competition law and that permission to amend in this respect should be refused. Even if Article 101 / Section 2 were infringed by an alleged (horizontal) practice of manipulating LIBOR, or indeed setting, that would not render void a (vertical) LIBOR-referencing agreement between an infringer bank and a third party.

In addition, UGL had alleged at first instance that it had been induced to enter into the Agreements by an implied representation that LIBOR was a genuine and objective market rate (and that DB would not manipulate it) and therefore claimed rescission. In response, DB had sought an order that UGL should make immediate payment into Court of £120m, being the minimum sum it would be required to repay if UGL were successful in its rescission argument (i.e. the amount of the principal sum lent under the loan agreement, less repayments made). Whereas the High Court refused to grant the order on the basis that the CPR did not permit the award of an interim payment, or the imposition of a condition upon the right to be able to defend the claim, the Court of Appeal decided that it did have power to order the immediate payment of £120m into Court.

Banks should be aware that, notwithstanding the failure of the competition law defence in this case, borrowers may still contend that, in offering to enter into agreements referencing LIBOR, the lender bank had made implied representations as to the integrity of LIBOR, entitling the borrower to rescind the agreements for misrepresentation. It will be of some comfort to banks, however, that this ruling demonstrated that allegations of LIBOR-rigging will not enable a borrower to defer its payment obligations. Should this case reach trial, it will be the first case involving allegations of LIBOR-rigging to do so.

COURT OF APPEAL CONFIRMS APPROACH TO CORRECTING MISTAKES IN CONTRACTS

In *LBG Capital No 1 Plc and Another v BNY Mellon Corporate Trustee Services Ltd* [2015] EWCA Civ 1257 which related to £3.3bn of enhanced capital notes (ECNs) issued by Lloyds Bank subsidiaries (LBG) in 2009, the Court of Appeal reversed the decision of the High Court by allowing early redemption of the ECNs and confirmed the correct approach to correcting mistakes in contracts.

The ECNs, issued in order to increase Lloyds' core Tier 1 Capital, had maturity dates from 2019-2032, and a very high interest rate (10.33 per cent average) prior to maturity. The trust deed constituting them allowed for early redemption on a "Capital Disqualification Event" (CDE). The definition of a CDE included a situation where the ECNs ceased to be "taken into account" for the purposes of a regulatory capital stress test (CDE Definition).

In carrying out a stress test in December 2014 (December Stress Test), the PRA had not taken the ECNs into account and LBG therefore announced that a CDE had occurred and that it intended to redeem them. The trustee of the ECNs, BNY Mellon, issued proceedings to prevent early redemption. In June 2015, the High Court found that no CDE had occurred. LBG subsequently appealed.

The Court of Appeal agreed with the High Court that the December Stress Test was relevant for the purposes of the CDE Definition, even though it related to Common Equity Tier 1 Capital, whereas the CDE Definition referred only to stress tests in respect of Consolidated Core Tier 1 Capital. In fact, this was an obvious drafting mistake (even to the reasonable addressees of the ECNs) and it was, therefore, an appropriate one to correct.

In relation to whether the judge at first instance was correct to conclude that a CDE would only occur where there was a "disallowance in principle" of the use of ECNs in connection with stress testing, LBG's appeal was allowed. The ECNs would cease to be "taken into account" for the purposes of the CDE Definition if they were no longer capable of contributing to LBG's ability to meet the requirements of the stress test. Since the ECNs were first issued, their conversion trigger point had fallen below the regulatory minimum ratio. This meant that they could not assist LBG in meeting capital requirements, were not taken into account in the December Stress Test and would not be taken into account in future stress tests. The Court therefore held that a CDE had occurred and the ECNs could be redeemed early.

The case highlighted that although the Court of Appeal and High Court were both prepared to reject an over-literal interpretation in favour of a purposive interpretation of the CDE Definition, they reached different views on the commercial purpose of the clause. Lord Justice Briggs noted that the question of construction was *"really quite short"* but *"difficult"* and one on which his mind had *"vacillated several times"*.

Banks should take note that in relation to disputes over construction of a contract, although the rules on correcting a mistake seem, at present, to be settled, the outcome is likely to depend on the judge's view of the commercial purpose of the transaction. Clear, unambiguous drafting which anticipates, as far as possible, the likely changes in the regulatory landscape is therefore vital.

The Court of Appeal's finding in respect of the reasonable addressees' understanding of the ECNs is also noteworthy: where clear, pre-investment warnings have been given regarding the complexity of the transaction, and the need for a detailed risk assessment to be carried out, the reasonable addressee will be taken to be someone with an informed understanding of financial markets, the regulatory background, and the use of stress tests. Banks should, therefore, also note the Court's unsympathetic approach to retail investors arguing that they would not have understood an obvious error in the drafting of documents, in these circumstances.

FINANCIAL CRIME

MONEY LAUNDERING - EMBARGOED JUDGEMENT RELEASED

In *N v S* (with the National Crime Agency (NCA) as interested party), the Commercial Court (Mr Justice Burton) recently released a judgment given in private last October.

Faced with a customer, on the verge of serious financial difficulties as a result of the closure of its accounts, and a bank requiring protection from liability under the Proceeds of Crime Act 2002 (POCA), the Court took the rare step of making interim declarations.

The Claimant company (N) (annual turnover £700m), which had a full compliance team and had never been criticised by the FCA, provided FX and payment services to a range of clients, including private, corporate and fund clients.

Last September, the Defendant bank (S) became suspicious about seven client accounts set up by N and froze the individual accounts. Within two weeks, S froze all of N's accounts, including its four main accounts through which most client transactions flowed.

In freezing the accounts, S relied upon both its terms of business relating to current accounts and those relating to FX trading. The former entitled S to close accounts without notice in exceptional circumstances and purported to exonerate S from all liability for refusing to process payments in the interests of crime prevention. The FX terms provided for termination of the arrangements without notice where S considered it necessary for its own protection.

Following the arousal of suspicion, S had made a disclosure to the NCA under Section 338 of POCA and sought its consent to return all funds to N upon terminating the banking relationship, and not to effect any specific transactions. The requested consent had been granted by the NCA on 15 October 2015.

The effect of the freeze had been to put a stop on approximately £22.8m of client money which was in the process of being paid out or converted. Therefore, N not only issued proceedings against S for breach of contract and duty of care, but also sought a mandatory injunction requiring S to effect the frozen transactions.

Pending trial, N applied for interim declarations that S should perform the frozen transactions and that in doing so, S would not commit any criminal offence under POCA or otherwise, and that S would not be obliged to make any disclosure as would or may be required by the criminal law or any other law. If S had to seek consent to effect the frozen transactions, the potential further delay caused by the POCA timetable for consent under Section 335, including the 31 day moratorium following a request, would have disastrous consequences for N. Therefore, following the guidance in *Bank of Scotland v A* [2001] 1 WLR 751, to the effect that interim declarations, albeit rarely granted, can be granted in genuinely difficult situations for limited periods, including in respect of criminal proceedings, the judge made the interim declarations sought.

In making these interim declarations, the Court was satisfied that the NCA's previous consent to the return of all money held in the accounts to N, indicated that the NCA had no evidence that any of the relevant money represented the proceeds of crime or benefit from criminal conduct.

Separately, S had applied for protection not only in respect of the criminal law but also in relation to potential civil liability.

However, the Court was not prepared to make such a declaration, which might have had an effect on the rights of third parties, over and above N's own claims in contract and breach of duty.

PRESERVATION OF PRIVILEGE ON ELECTRONIC DEVICES - LAWFULNESS OF SFO REVIEW PROCEDURE

In *R (on the application of McKenzie) v The Director of the Serious Fraud Office* [2016] EWHC 102 (Admin), the Divisional Court considered an application for judicial review of the SFO's procedure for dealing with material potentially subject to legal professional privilege (LPP) embedded in seized electronic devices, or produced in response to a statutory notice.

The Claimant (M) argued that the SFO's procedures, involving in-house IT staff to isolate material potentially subject to LPP, were inconsistent with guidelines provided by the Attorney General and that the SFO's approach gave rise to a risk that the investigation team would gain access to LPP material. The SFO system used in-house IT staff to initiate an electronic search of the content of seized devices by reference to search terms provided by the owners of the devices, for the purposes of isolating LPP material for subsequent review by independent counsel.

In this case, M had been arrested at Heathrow Airport in June 2015 on suspicion of conspiracy to commit bribery contrary to Section 1 of the Bribery Act 2010. A USB stick, an iPhone 6, a Samsung mobile telephone and a Dell laptop were seized at the airport, together with devices held by a colleague. Six days later, the SFO served a notice under Section 2(3) of the Criminal Justice Act 1987 requiring M to produce further items. In response M produced his gold iPhone and various pieces of computer equipment belonging to his company. There was no suggestion that during this period the SFO had any reason to suppose that any of these devices contained material subject to LPP.

Two months later, the SFO notified M's solicitors that it believed that the gold iPhone may contain some LPP material with the consequence that its content were being quarantined within the SFO's computer systems. In accordance with usual practice, M's solicitors were asked to provide a list of search terms to enable potential LPP material to be identified so that it could be isolated for review by independent counsel. This request for search terms prompted a response from M's solicitors that there was LPP material stored on all of the devices, despite not having previously raised the question of LPP at all. They refused to provide the search terms on the basis that the SFO procedure was unlawful.

In the recent case of *R (Rawlinson and Hunter Trustees) v Central Criminal Court* [2013] 1 WLR 1634, it was decided that the "independent lawyer" who reviews the material to decide whether it attracts LPP could not be someone employed by the investigating agency itself and so not someone within the SFO or an adviser to the SFO on the investigation. The only matter for consideration in M's case therefore was whether the use of in-house IT personnel to isolate potential LPP material for independent review was lawful.

The Divisional Court held that the SFO's procedure was lawful. Contrary to M's arguments, there was no statutory support for the proposition that the preliminary sifting, whether electronic or manual (in the case of hard copy seizures), should be outsourced. As a seizing authority, the SFO had a duty to devise and operate a system to isolate potential LPP material in its possession, and since it could reasonably be expected to ensure that such material would not be read by members of the investigation team before being reviewed by an independent lawyer, it did not have to outsource the sifting work. It could be trusted to ensure that investigators did not read the LPP material and, in the unlikely event that this should happen, the investigator concerned could always be removed from the case. The Court was not prepared to accept that there was a material risk that a member of the team would deliberately read LPP material such that the physical proximity of the IT team and the investigation team within the same building gave rise to an issue.

In short, therefore, the SFO's Handbook for isolating material potentially subject to LPP, for the purpose of making it available to an independent lawyer for review, is lawful.

BRIBERY ACT 2010 - FIRST CONVICTION OF A CORPORATE FOR FAILURE TO PREVENT BRIBERY UNDER SECTION 7

In February 2016, the SFO secured its first conviction of a commercial organisation for failure to prevent bribery by an associated person under Section 7 of the Bribery Act 2010. Sweett Group plc pleaded guilty to an offence of failing to prevent bribery being committed (between December 2012 and December 2015) by an associated person - subsidiary company, Cyril Sweett International Limited (CSI), acting by its servants and agents. CSI bribed a Middle Eastern individual (A) in order to secure and retain a contract for project management and consulting services in relation to the building of a hotel in Dubai. The conviction followed a long running investigation opened by the SFO in July 2014 in relation to the activities of Sweett Group in the United Arab Emirates and elsewhere. The SFO's

investigation appears to have been triggered by allegations in the Wall Street Journal that a Sweett Group employee offered architectural design work on a construction project in Morocco to a New York firm, if it should agree to pay a bribe to a UAE official.

In sentencing, the judge was critical of the company's conduct after the SFO had begun its investigation. In particular, representatives of the company had misled the SFO by attempting to procure a letter from A to the effect that the contract was for a legitimate purpose. It is no doubt for reasons such as this that a deferred prosecution agreement was not offered to the company.

In addition, the company had failed to heed recommendations made by its auditors in both 2011 and 2014 in relation to the company's financial controls. As a result, Sweett Group was forced to concede that it had not put adequate procedures in place designed to prevent bribery, thereby depriving itself of the defence under the Bribery Act of having adequate procedures.

Sweett Group was sentenced and ordered to pay £2.25m, comprising a fine of £1.4m, and confiscation of its profit of £850,000.

This case illustrates the extra-territorial reach of the Bribery Act, the utmost importance of having robust compliance policies and implemented procedures in place, and the need to co-operate fully in the event of an investigation.

IRAN SANCTIONS: DEVELOPMENTS SINCE IMPLEMENTATION DAY FOR FINANCIAL INSTITUTIONS

On 16 January 2016, the United Nations (UN) watchdog certified that Iran had fulfilled its initial commitment under the Iranian Nuclear deal signed on 14 July 2015. In return the UN, European Union (EU) and United States (US) lifted a number of sanctions that had been imposed on Iran, including:

i. all UN sanctions;

ii. the EU embargo on oil imports; and

iii. most significantly for the financial world, US sanctions penalising international banks from doing business with Iran.

However, the following sanctions still remain in place:

i. US sanctions relating to Iranian support of terrorism and human rights abuse. In practice this means a restriction on all US financial institutions being involved in any transaction with Iran. Significantly, this also prevents all transactions with Iran being done in US dollars as this would involve a US clearing bank.

ii. The restriction on any transactions with the Iranian Revolutionary Guard or other sanctioned individuals or entities. This restriction is significant given that the Iranian Revolutionary Guard is said to control a considerable part of the Iranian economy.

How have financial institutions reacted?

The predominant reaction amongst financial institutions has been to do nothing. While a few smaller banks, including Belgium's KBC and Germany's DZ Bank have confirmed that they are handling transactions for European clients doing business in Iran, most international banks are not willing to do so.

Iran had hoped to return to the situation pre-2010 when some US sanctions were in place but non-US financial institutions were prepared to facilitate trades in non-dollar currency. However, the current situation is very different as there is very little appetite for risk. This has not been helped by US clearing banks warning international banks that any bank with a US dollar account would face close scrutiny if trading with Iran even where that trade was in a non-US dollar currency. There is also a very real fear of fines from the US which have totalled $15bn over the past five years. The two key concerns seem to be:

i. the level of Customer Due Diligence (CDD) actually required to prove that a bank has adequately checked there are no links to sanctioned individuals or entities; and

ii. how large international institutions can adequately ring-fence their US entities and US dollar funds.

Further uncertainty is added by the fact that all of the US Republican candidates have made it clear they will try to overturn the Iran Nuclear deal if they are elected this November, making extensive investment in mechanisms to facilitate transactions with Iran unappealing.

Will this change going forward?

There is growing frustration in Iran over the lack of action by financial institutions. The fear of endangering the Iran Nuclear deal has led to increasing political pressure on financial institutions. For example, David Cameron wrote to Barclays in February of this year asking for an explanation for its refusal to handle a payment for a British manufacturer trading in Iran. The response from Barclays was that they considered they were restricted from such transactions for as long as they offered

banking services through US operations. US officials have taken a more pragmatic approach and at the time of writing have commenced a series of international road-shows, starting in Dubai, to assist non-US companies to understand how to do business with Iran without breaching the remaining sanctions.

It will be interesting to see the impact of the US road-shows and any similar initiatives. John Kerry also recently said foreign banks should feel free to deal with Iran. However, for the time being at least, it seems the benefits for large financial institutions in engaging in business in Iran continue to be heavily outweighed by uncertainty and the fear of hefty penalties from the US.

CREATION OF THE OFFICE OF THE FINANCIAL SANCTIONS IMPLEMENTATION

On 31 March 2016, HM Treasury created the Office of Financial Sanctions Implementation (OFSI), designed to help ensure that financial sanctions are properly understood, implemented and enforced, fulfilling the Chancellor's promise to establish a new body dealing with financial sanctions by the end of this financial year.

It is expected that the newly created body will come to resemble its more robust US counterpart, the Office of Foreign Assets Control (OFAC). Currently, in the United Kingdom, financial sanctions can only be enforced by initiating a criminal prosecution, whereas OFAC has the power to impose civil penalties and to agree settlements with offenders under its Enforcement Guidelines.

The announcement of the OFSI was coupled with an announcement on new provisions in the Policing and Crime Bill, including a range of new administrative penalties, monetary penalties and an increase in the maximum custodial sentence for breaching financial sanctions to seven years on conviction on indictment (or six months imprisonment on summary conviction). We will continue to follow this development.

In mid April 2016, the OFSI published guidance on the financial sanctions framework in the United Kingdom and the approach which the OFSI will take when issuing licences and considering compliance.

CONTACT DETAILS

If you would like further information or specific advice on any of the issues raised in this update please see the following page for details of our banking and finance dispute resolution team.

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