SANCTIONS GUIDANCE NOTE

SANCTIONS COMPLIANCE FOR REAL ESTATE PROFESSIONALS

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This **GUIDANCE NOTE** is produced by the Australian Sanctions Office (ASO) within the Department of Foreign Affairs and Trade (DFAT). It provides a summary of relevant sanctions laws but does not cover all possible sanctions risks. Users should consider all applicable sanctions measures and seek independent legal advice. This document should not be used as a substitute for legal advice. Users are responsible for ensuring compliance with sanctions laws.

OVERVIEW

This guidance note covers information relevant to real estate agents and conveyancers in managing sanctions risks. It includes guidance in light of reforms to anti-money laundering and counter-terrorism financing legislation. It identifies key sanctions risks applicable to certain real estate and conveyancing services and outlines new sanctions-related AML/CTF legislative obligations that will apply to persons providing such 'designated services' from 1 July 2026.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING REFORMS

On 29 November 2024, the Parliament of Australia passed the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024* that simplifies and modernises Australia's anti-money laundering and counter-terrorism financing (**AML/CTF**) laws, which includes the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (**AML/CTF Act**). Australia's AML/CTF laws are supported by the AML/CTF Rules (the *Anti-Money Laundering and Counter Terrorism Financing Rules 2025*).

These reforms aim to strengthen Australia's laws to help prevent organised crime and ensure our laws meet international standards set by the global financial crime policy and standard-setter – the Financial Action Task Force (**FATF**). Key changes expand the AML/CTF framework into new industries providing services recognised both domestically and globally as high-risk for criminal exploitation. The reforms also strengthen Australia's targeted financial sanctions by helping to identify and prevent dealings with sanctioned individuals or entities, or their assets, through designated services provided by legal professionals.

Services provided by real estate professionals pose a high money laundering risk in Australia. They are particularly vulnerable due to their involvement with facilitating high-value transactions, transactions involving foreign buyers and cross-border transactions, and assumed legitimate assets. Australian authorities find criminals are increasingly using the real estate sector to try and legitimise their illegal proceeds.

From 1 July 2026, AML/CTF obligations will apply to certain 'designated services' typically provided by real estate professionals and conveyancers. Designated services related to real estate include:

- the sale, purchase, and transfer of real property ownership, as well as certain leases that resemble ownership arrangements (e.g. leases for more than 30 years), regardless of whether any payment or other consideration is involved in the transfer; and
- brokering the sale, purchase or transfer of real estate as part of a business.

Real estate professional who are 'reporting entities' (a **person who provides a designated service**) will be subject to the reformed AML/CTF obligations regarding customer due diligence (**CDD**). Reporting entities are required

to collect and verify information to establish on reasonable grounds whether their customers and certain associates are designated for targeted financial sanctions (**TFS**).

For the purposes of the AML/CTF laws, a person designated for targeted financial sanctions means:

- a designated person or entity (within the meaning of regulations made under the *Charter of the United Nations Act 1945*); or
- a designated person or entity (within the meaning of regulations made under the *Autonomous Sanctions Act 2011*).

Reporting entities are also required to develop, maintain and comply with AML/CTF policies aimed at ensuring that they do not contravene Australian sanctions laws related to TFS in providing its designated services.

The AML/CTF framework is administered by AUSTRAC. For further guidance on sanctions-related requirements under AML/CTF Reforms, please refer to AUSTRAC's website: AML/CTF Reform | AUSTRAC.

MANAGING SANCTIONS OBLIGATIONS

Australian Sanctions Laws

Sanctions are measures that the Australian Government, autonomously or on the basis of decisions of the United Nations Security Council, impose in response to situations of international concern. Sanctions offences, which can include certain financial dealings, constitute criminal offences under Australia's Autonomous Sanctions Act 2011 and the Charter of the United Nations Act 1945. Sanctions measures include prohibitions on dealing with a designated person or entity, dealing with controlled assets, or providing a sanctioned service.

Details of sanctions frameworks and measures applicable under them vary according to the objectives of the individual framework and can be obtained at DFAT's website. It is important to check the relevant sanctions framework to identify which specific measures are applicable. For details on sanctions frameworks, please refer to DFAT's website: Legislation and Sanctions Frameworks | DFAT

The Sanctions Compliance Toolkit offers practical guidance to help the regulated community identify and mitigate sanctions risks. Key elements of Australian sanctions laws are described below.

Designated Person or Entity

A designated person or entity is an individual, organisation, group or business who is listed under Australian sanctions laws. Designated persons or entities are subject to targeted financial sanctions. The Consolidated List (which includes persons and entities designated under Australia's UNSC and autonomous sanctions frameworks) is maintained by DFAT and identifies all designated persons or entities (including aliases) currently sanctioned by Australia. You are responsible for undertaking due diligence checks necessary to understand whether any of the persons or entities connected with your services are designated.

Australian sanctions laws are linked to the AML/CTF Tranche 2 obligations. This extends CDD obligations to real estate professionals, conveyancers and other persons providing designated services. Reporting entities must exercise due diligence such as targeted financial sanctions checks of their customers, any beneficial owners, persons acting on behalf of the customers, or customers receiving services on behalf of another person against the Consolidated List.

Sanctions risks may be present if an individual or entity attempts to sell, buy or otherwise change ownership of property with, or for the benefit of, a designated person or entity. For example, these risks could arise when real estate agents broker the sale, transfer or purchase of real estate, or when conveyancers assist with the planning or execution of a transaction to transfer real estate.

Controlled Assets

Assets are generally 'controlled assets' under Australian sanctions laws if they are owned or controlled by a designated person or entity. Assets may also be controlled assets if they are owned or controlled by a person acting on behalf of a designated person or entity. A person who, or entity which, holds a controlled asset is prohibited from:

- using or dealing with the asset;
- allowing the asset to be used or dealt with; or
- facilitating the use of, or dealing with, the asset.

An 'asset' is defined broadly for the purposes of Australian sanctions laws and includes funds, real estate (including forms of interest in real estate) and other property. The broad definition of assets may limit the extent to which real estate professionals can deal with a designated person or entity. For further guidance, please refer to the ASO's website: Guidance Note - Dealing with assets owned or controlled by designated persons and entities | DFAT.

Targeted Financial Sanctions

Targeted Financial Sanctions generally prohibit directly or indirectly making assets available to, or for the benefit of, designated persons or entities. They may also prohibit using or dealing with certain assets owned or controlled by such persons, effectively freezing these assets. A person or entity commits an offence if they engage in conduct in contravention of those prohibitions.

The scope of assets captured by the TFS measures include tangible, intangible, moveable and immoveable kinds of assets, regardless of how they are acquired. In terms of financial assets, this could be cash, bank credits, travellers and bank cheques, money orders, shares, securities, bonds, debt instruments, drafts and letters of credit. TFS may also apply to individuals or entities that hold, issue, or rely on legal documents and instruments demonstrating ownership of, or a legal interest in, an asset or property.

Importantly, the sanctions legislation may be contravened by indirectly making an asset available to or for the benefit of a designated person or entity. By way of example, this may occur if someone makes funds available to a person who acts at the designated person or entity's direction, or in which the designated person has a financial interest.

A person may also commit an offence if they make assets available for a designated person or entity's benefit. For example, this could include paying money to another person in satisfaction of a designated person's liabilities.

For further guidance, please refer to the ASO's website: Guidance Note - Financial transactions involving designated persons and entities | DFAT and Guidance Note - Securities and Investments Sector | DFAT.

Real Estate services

Australian sanctions laws generally prohibit activities associated with designated persons and entities (e.g. TFS), and activities associated with sanctioned countries, regions or terrorist groups which vary depending on the particular sanctions framework.

Sanctions risks associated with provision of services by a real estate professional may include (but are not limited to):

- the prohibition of dealing with designated person or entities – see e.g. regulation 14 of the Autonomous Sanctions Regulations 2011; or
- using or dealing with assets owned or controlled by a designated person – see e.g. regulation 15 of the Autonomous Sanctions Regulations 2011.

Please refer to each Legislation and Sanctions Frameworks | DFAT for the specific prohibitions.

Before accepting an engagement to provide real estate services, real estate professionals should be aware of the sanctions risks/obligations that relate to their business and how sanctions laws may apply to their client (or other relevant persons involved in the transaction).

What should you do if possible sanction contraventions are identified?

Assets owned or controlled by a person or entity designated for TFS must be frozen. This means persons who hold those assets cannot use or deal with, or allow the asset to be used or dealt with, or facilitate the use of the assets or dealing with the asset without a sanctions permit. In view of that prohibition, it may not be appropriate to conduct business with persons or entities that have been designated for TFS.

A person who holds a controlled asset and forms an opinion that the asset is a controlled asset must provide information about that asset to the Australian Federal Police. They should also report any attempt to use or deal with controlled assets to the Australian Sanctions Office through the PAX Portal or email at sanctions@dfat.gov.au if the transactions have not taken place. You should also not facilitate dealings with frozen assets by others, e.g. by brokering or helping to arrange the transfer of ownership of frozen real estate or other assets.

Reporting entities should also consider their obligations under the AML/CTF, including whether they must submit a suspicious matter report (SMR) to AUSTRAC (e.g. if you suspect attempted sanctions contraventions or other offences).

Penalties for Sanctions Offences

Sanctions offences are punishable by:

- For an **individual** – up to 10 years in prison and/or a fine of 2,500 penalty unites ($825,000 as of 7 November 2024), or three times the value of the transaction(s) (whichever is the greater).
- For a **body corporate** – a fine of up to 10,000 penalty units ($3.30 million as of 7 November 2024) or three times the value of the transaction(s) (whichever is greater).

The offences are *strict liability* offences for body corporate, meaning that it is not necessary to prove any fault element (intent, knowledge, recklessness or negligence) for a body corporate to be found guilty. However, an offence is not committed if a body corporate can demonstrate that it took **reasonable precautions**, and exercised **due diligence**, to avoid contravening Australia's autonomous sanctions laws.

Common red flag indicators

Red flag indicators serve as important tools for identifying suspicious customers and activities that may be associated with attempts to evade sanctions. Recognising these indicators enables reporting entities to detect and respond to illicit behaviour that could result in contraventions of sanctions laws. By monitoring for such warning signs, reporting entities can enhance their ability to protect themselves from facilitating prohibited transactions and maintain compliance with relevant legal obligations.

AUSTRAC provides guidance on high-risk indicators for real estate and conveyancing professionals to consider when assessing for money laundering: Risk insights and indicators of suspicious activity for the real estate sector | AUSTRAC

WHAT DOES THIS MEAN FOR REAL ESTATE PROFESSIONALS?

The restrictions under Australian sanctions laws can be nuanced and contingent upon the specific nature of the services being offered, the identity and status of the client, and the circumstances surrounding the engagement. Real estate professionals must take proactive steps to assess each situation individually, considering whether the client or other person involved in the transaction is a designated person or entity and whether the service provided falls within the scope of a sanctioned activity as defined by the relevant Legislation and Sanctions Frameworks | DFAT.

By adopting appropriate sanctions checks and adequate due diligence practices, real estate professionals can meet their obligations under Australian sanctions laws. This involves exercising due diligence and applying a risk-based approach for each client and their unique circumstances and the nature of the property transaction undertaken. Through these careful steps, real estate professionals can mitigate against the risk of inadvertently breaching sanctions laws while continuing to provide real estate services to legitimate buyers, sellers and other property transactions where not prohibited. In this way, compliance requirements are satisfied without unnecessarily restricting access to lawful support in situations where it is not prohibited by the relevant sanctions frameworks.

HOW TO MITIGATE SANCTIONS RISK

Additional Obligations under the AML/CTF Act and Rules

The AML/CTF Act and Rules require reporting entities to develop and maintain AML/CTF policies that mitigate and manage risks of money laundering, terrorism financing and proliferation financing when providing designated services.

A reporting entity's AML/CTF policies must set out how the reporting entity will ensure that, in providing designated services, it: q

- does not make any assets available to, or for the benefit of, a person designated for TFS, in contravention of Australia's sanctions laws; and
- does not use or deal with, or allow or facilitate someone to use or deal with, any assets owned or controlled (directly or indirectly), by a person designated for TFS, in contravention of Australia's sanctions laws.

Reporting entities must establish on reasonable grounds the following matters before they start to provide a designated service:

- the identity of a customer;
- the identity of any beneficial owner of the customer (where that customer is a legal entity);
- the identity of any person on whose behalf the customer is receiving the designated service; and
- the identity of any person acting on behalf of the customer and their authority to act.

A reporting entity must also establish on reasonable grounds whether any of the abovementioned persons is designated for targeted financial sanctions.

Throughout the course of their business relationship with customers or the abovementioned persons, reporting entities should be alert to potential sanctions compliance risks and continue to check whether any person mentioned above has become designated for TFS as part of their ongoing due diligence.

Exercise due diligence

Entities should implement due diligence measures to mitigate the risk of potential sanctions contraventions. These measures help define sanctions risks that customers may bring into your practice. Based on due diligence

outcomes, entities should be able to establish if customers are a designated person or entity on the Consolidated List that are subject to targeted financial sanctions – and therefore subject to restrictions that prevent dealing with them or their assets.

For activities involving high risk jurisdictions, this may involve conducting more thorough checks and further investigation, as well as seeking additional legal advice. The Sanctions Compliance Toolkit and the Sanctions Risk Assessment Tool provide comprehensive guidance, outlining key principles, risk management strategies, and best practises that regulated entities can adopt to help ensure they do not contravene sanctions. Those resources are developed to assist with identifying and managing risks related to Australia's sanctions laws.

Case Study 1

An Australian conveyancer was engaged to facilitate the transfer of real estate ownership for a client holding dual Australian–Russian citizenship. While undertaking Customer Due Diligence (CDD) during the review of the transaction's legal documents and financial statements, the conveyancer identified unusual inconsistencies that warranted closer scrutiny.

To ensure compliance with Australian sanctions laws, the conveyancer undertook comprehensive due diligence. This included checking the client's details against the Consolidated List and performing additional searches, such as reviewing relevant media reports from domestic and foreign news outlets. These checks uncovered publicly available information linking the client to an individual designated under Australian sanctions legislation, who financed the transaction.

On the basis of the information suggesting a close connection between the client and the designated person, the conveyancer formed a reasonable suspicion that the client may be acting on behalf of the designated person. The conveyancer determined that there was no clear way that they could mitigate the sanctions risk and decided to cease providing services to the client to prevent any potential contravention of sanctions laws.

The conveyancer should report the matter to the ASO, ensuring thorough documentation of the buyer and their connections. The conveyancer also submits a suspicious matter report to AUSTRAC due to a suspected attempt to contravene Australian sanction laws.

Case Study 2

An Australian real estate agency was engaged to broker the sale of a property in Australia. The property was registered to a family trust fund with complex ownership structures and several layers of intermediaries. While undertaking customer due diligence on the beneficial owner of the trust, the real estate agency became concerned that the beneficial owner was potentially a person designated for TFS under Australia's autonomous sanctions. Faced with this doubt, the agency needed to determine whether the asset was owned or controlled by a designated person or entity.

The agency cross-referenced names of persons within the ownership structures, including intermediaries, against the Consolidated List. The checks confirmed some names of beneficiaries appeared as designated persons. The agency promptly froze the client's funds held in its trust account that it believed to be a controlled asset and notified the ASO and the AFP. The real estate agency also submitted a suspicious matter report to AUSTRAC due to a suspected attempt to contravene Australian sanction laws.

SANCTIONS PERMITS

A sanctions permit is an authorisation from the Minister for Foreign Affairs (or the Minister's delegate) to undertake an activity that would otherwise be prohibited by Australian sanctions law. The Minister may grant a permit in relation to both United Nations Security Council (UNSC) and autonomous sanctions frameworks.

UNSC Sanctions Permits: The criteria for sanctions permits under UNSC frameworks vary, as do the range of activities that the Minister can authorise. These activities tend to be more limited than those which can be authorised under the autonomous sanctions frameworks. Additionally, some UNSC sanctions frameworks require the Minister to notify or receive the approval of the UNSC before granting a sanctions permit.

Autonomous Sanctions Permits: All permits issued under autonomous sanctions frameworks must meet the same criteria, in particular that the Minister must not grant the permit unless the Minister is satisfied that granting the permit is in the 'national interest'. This generally requires the Minister to be satisfied that the grant of the permit is beneficial or advantageous to the nation as a whole, as opposed to only a particular company, group, or region within the nation.

For more detailed information about how to apply for sanctions permits, including guidance on specific frameworks and classes of permits, please refer to DFAT's website: Apply for a sanctions permit | DFAT.

Approach to Permits

The ASO advocates for proactive risk management rather than relying on permits. Sanctions permits are generally appropriate only when there is a clear likelihood of a sanctions contravention occurring. For broad or non-specific sanctions risks, it is better to manage compliance through **reasonable precautions and due diligence** to prevent issues before they arise. To enable due consideration of any permit application, ASO must be provided sufficient detail of a specific contravention to which the application relates.

Further Information and Resources

While this guidance note provides a framework for understanding key sanctions risks and compliance requirements, it is essential to remember that it does not cover every possible scenario. Sanctions compliance is a dynamic, ongoing process rather than a once-off assessment.

Sanctions measures and associated risks constantly evolve and require regulated entities to continuously monitor and reassess their compliance strategies. Regulated entities are encouraged to seek independent legal advice tailored to their specific situation and ensure thorough due diligence in all activities.

The Sanctions Compliance Toolkit and the Sanctions Risk Assessment Tool provide comprehensive guidance, outlining key principles, risk management strategies, and best practises that regulated entities can adopt to help ensure they do not contravene sanctions.

Further information is available on the Department's website and in ASO guidance notes on specific sanctions topics. If you have any questions, you can make an enquiry through the Pax Portal, or email sanctions@dfat.gov.au