

# **MEMORANDUM OF UNDERSTANDING**

**Between**

**The Solicitors Regulation Authority**

**And**

**The Office of Financial Sanctions Implementation**

## **Introduction**

1. The Solicitors Regulation Authority (“SRA”) and the Office of Financial Sanctions Implementation (“OFSI”) (together “the parties” and separately the “party”) are committed to working together in the public interest to promote best practice amongst law firms in relation to compliance with the UK sanctions regime. In support of this aim, this Memorandum of Understanding (“MoU”) sets out the framework for effective liaison and communication between the SRA and the OFSI.
2. The purpose of this MoU is to:
  - a. put in place clear arrangements and practices that will foster an effective and cooperative working relationship between the SRA and the OFSI; and
  - b. to provide a framework for the flow of information between the parties, where there is a lawful basis.

## **Legal status and effect**

3. Nothing in this MoU shall, or is intended to:
  - a. create any legal or procedural right or obligation which is enforceable by either of the parties against the other; or
  - b. create any legal or procedural right or obligation which is enforceable by any third party against either of the parties, or against any other third party; or
  - c. prevent either of the parties from complying with any law which applies to them; or
  - d. fetter or restrict in any way whatsoever the exercise of any discretion which the law requires or allows the parties to exercise; or
  - e. create any legitimate expectation on the part of any person that either of the parties in this MoU will do any act (either at all, or in any particular way, or at any particular time) or will refrain from doing any act.
4. Nevertheless, the parties are genuinely committed to pursuing the aims and purposes of this MoU in good faith and intend to act in accordance with its terms on a voluntary basis.

## Role of the SRA

5. The SRA is a company (Solicitors Regulation Authority Limited) registered in England and Wales (company registration number 12608059) whose registered office is at the Cube, 199 Wharfside Street, Birmingham B1 1RN. It is the independent regulatory body responsible for the regulation of legal services by law firms and solicitors in England and Wales. The SRA's powers arise from various statutes and regulations including the Solicitors Act 1974, the Administration of Justice Act 1985, the Courts and Legal Services Act 2007 and the SRA's Standards and Regulations.
6. The SRA investigates allegations of breaches of its requirements and where appropriate makes findings and imposes disciplinary sanctions. The SRA has statutory and rule- based powers to require the production of documents or information, such as section 44B of the Solicitors Act 1974 and section 93 of the Legal Services Act 2007.
7. The SRA may inspect material that is subject to a law firm's client's legal professional privilege (LPP) or confidentiality but may only use such material for its regulatory purposes. The SRA also protects the LPP and confidentiality of clients. LPP material will not be disclosed by the SRA to any other person other than where necessary for its regulatory purposes. Material that is not subject to LPP may be disclosable in the public interest, in the absolute discretion of the SRA, including material comprising communications in furtherance of crime or fraud.

## Role of OFSI, HM Treasury

8. HM Treasury is the competent authority for financial sanctions and trade sanctions relating to maritime transportation of certain oil and oil products (the "**relevant maritime services sanctions**") for the UK. OFSI is part of HM Treasury and helps to ensure that:
  - a. financial sanctions, and
  - b. relevant maritime services sanctions—are properly understood, implemented and enforced in the UK. This contributes to maintaining the integrity of the financial system and supports the UK's foreign policy and national security goals.
9. OFSI's statutory information sharing powers are set out in each of the Sanctions and Anti-Money Laundering Act (2018) ("**SAMLA**") regulations. Provision for

information sharing was also made in previous EU financial sanctions regulations.

10. Unless otherwise specified, this MoU refers to the express powers in the SAMLA regulations. These powers provide that information of a type specified in the regulation may be disclosed for a specific purpose and to a person listed in the regulations (“**the information sharing gateway**”). OFSI has the powers to share information with the SRA under the information sharing gateway, provided that one or more purposes listed in the applicable regulation is met.
11. SAMLA regulations also contain provision to permit “relevant public authorities”, including the SRA, to share information with HM Treasury (which includes OFSI) to enable or assist HM Treasury to discharge its functions in connection with sanctions.

### **Information sharing**

12. To the extent permitted under applicable laws and policies, the parties intend to share relevant information:
  - a. to enable the assessment of risk to the public such as to:
    - i. minimise the risk of financial default
    - ii. protect the interests of clients or beneficiaries
    - iii. minimise the risk of fraud or other criminality
    - iv. identify the risk of financial failure;
  - b. so that alleged criminality, misconduct, breaches of the SRA Principles or other failures are properly investigated and decided upon;
  - c. so that suspected breaches of financial or relevant maritime sanctions are properly investigated and the UK sanctions regime operates effectively; and
  - d. for the purposes of regulatory, disciplinary or other legal proceedings, whether in public or not, provided that the recipient is reasonably considered able to take regulatory or other proper action upon receipt of the information.
13. To the extent permitted under applicable laws and policies, the Parties intend to share relevant information that enables effective co-operation and the discharge of the Parties’ functions.
14. The Parties may share relevant information proactively or on request. When sharing such information, the Parties will agree the frequency and mechanism for doing so.
15. For the purposes of this MoU, relevant information includes, but is not limited to:

- a. details of licenses granted or denied to firms supervised by the SRA;
- b. details of notifications to OFSI of use of general licenses by firms supervised by the SRA;
- c. the number of licenses previously granted to firms supervised by the SRA;
- d. information about firms supervised by the SRA holding frozen assets;
- e. details of any investigation and enforcement action taken (both ongoing and concluded) in relation to the SRA's supervised population;
- f. information relating to suspected or actual sanctions breaches identified by OFSI, that fall within OFSI's competencies, which suggest weaknesses in the SRA-supervised firm's systems and controls;
- g. information relating to suspected or actual sanctions breaches identified by the SRA that fall within OFSI's competencies, which the SRA has reasons to believe that OFSI may not be aware of;
- h. information relating to suspected or actual breaches of financial sanctions or relevant maritime services sanctions identified by either Party, where there is reason to believe that joint investigations would benefit enforcement of those sanctions;
- i. personal data, which may include information relating to individuals who have been involved in a suspected or actual breach of sanctions that fall within OFSI's competencies;
- j. any adverse intelligence or concerns held by OFSI in relation to firms or individuals supervised by the SRA, including, but not limited to where there is concern about compliance with licenses granted; and
- k. any information that could be used for intelligence purposes which falls within the remit of OFSI's competencies.

16. The recipient of information received from the other party will:

- a. comply at all times with UK data protection legislation and any relevant codes of conduct or certifications;
- b. keep the information secure;
- c. use the information only for proper purposes such as regulatory, disciplinary or other legal investigations or proceedings; and
- d. liaise or co-operate where appropriate to avoid action that prejudices or may prejudice an investigation by another party or person.

17. Proper purposes may also include further lawful disclosure of the information such as to persons under investigation, witnesses, legal advisers, other regulators, professional bodies, prosecuting bodies and law enforcement agencies.

18. The parties agree to ensure that disclosures to the other party are lawful including the common law principles of confidentiality and privacy (insofar as these are applicable) and the Human Rights Act 1998.

19. The disclosing party also agrees to notify the recipient of:

- a. any restrictions on the use to which the information can be put; and
- b. any restrictions which apply to the onward disclosure of the information; and
- c. in the absence of such notification the receiving party will assume that there are no further restrictions except those which apply as a matter of law.

20. The parties agree that, where one party has received information from the other, they will seek consent before passing the information on to a third party, subject to any duties under any applicable laws. Where disclosure is required by any applicable laws, then the disclosing party will notify the other party prior to any such disclosure. The parties understand that notifying the other party in such cases, and only if possible and where appropriate, may assist with identifying any legal exemptions or privileges that may apply to the information.

### **Practical exchange of information and relevant points of contact**

21. Where matters of policy, principle or general issues that the SRA or OFSI think could pose a risk to customers or other joint interests not relating to a specific case need to be raised, the relevant point of contact at the SRA will be the Director of AML who will liaise directly with the relevant Head of Unit.

22. Where the SRA and OFSI wish to communicate in respect of specific firms of solicitors that are, or could be, in breach of the financial and/or relevant maritime sanctions regimes, the contact at the SRA will be the Intelligence Manager who will liaise directly with the applicable Branch Head for the relevant unit.

### **Security and assurance**

23. The parties agree to:

- a. only use the information received under this MoU for the purposes for which they have received it, unless otherwise agreed between them in writing and in accordance with any applicable law;
- b. store the information securely;

- c. ensure that only people who have a genuine business need to see the information will have access to it;
- d. report data losses or wrongful disclosure to the relevant points of contact as detailed in paragraphs 21 and 22 and to each organisation's designated data controller;
- e. only hold the information while there is a business need to keep it and in accordance with data protection legislation;
- f. destroy the information in line with data retention policies; and
- g. upon request, provide assurance that they have complied with these principles.

### **Freedom of information Act 2000 ("FOIA")**

24. OFSI, as part of HM Treasury, is subject to the FOIA.

25. The SRA is not subject to the provisions of the FOIA, however as a transparent regulator the SRA applies its own Transparency Code in a similar way to the FOIA.

### **Data Subjects' Rights**

26. The Parties agree to provide such assistance as is reasonably practicable to enable the other Party to comply with requests from data subjects that may relate to, or may be in connection with, information that has been shared under this MoU.

27. Each Party shall notify the other as soon as reasonably practicable after becoming aware if they:

- a. Receive a data subject access request or a request that they deem be a data subject access request;
- b. Receive a request to rectify, block or erase any personal data;
- c. Receive any other request, complaint or communication relating to either Party's obligations under the UK GDPR or the DPA;
- d. Receive any communication from the Information Commissioner or any other regulatory authority, or;
- e. Receive a request for disclosure of personal data—

Where such requests or communications (as applicable) relate to, or are in connection with, information that has been shared under this MoU.

### **Costs/charges/liability**

28. No charges will be made in relation to the supply of information by either party. Neither party shall be liable to the other for any loss howsoever arising in connection with this agreement in so far as permitted by law.

## **Resolving issues**

29. Issues and problems that arise between the parties will be resolved through discussion by the relevant points of contact as detailed in paragraphs 21 and 22 with escalation to more senior managers where necessary.

## **Reporting/reviewing arrangements/termination**

30. The terms of this MoU shall commence at the date of signature by both parties. This MoU will remain in force until terminated by either party.

31. The signatories of this MoU will use their best endeavours to review the operation of this MoU on an annual basis.

32. Any changes to this MoU must be agreed in writing.

33. In the event of termination of this MoU, the parties will continue to observe such confidentiality and information handling arrangements in connection with information already received under the MoU in accordance with this MoU and any relevant legal obligations (including under data protection legislation).

## **Transparency**

34. The parties may publish this MoU as they separately see fit.

## **Signatories**

**Name: Giles Thomson – Office of Financial Sanctions Implementation**

**Title: Director – Economic Crime and Sanctions**

**Signed:** 

**Date: 11/01/2024**

**Name: Andrew Turton – Solicitors Regulation Authority**

**Title: Director of Risk and Information Governance**

**Signed:** 

**Date: 12/01/2024**