



NCA

National Crime Agency

NECC

NATIONAL ECONOMIC CRIME CENTRE



Foreign, Commonwealth
& Development Office



Red ALERT

Gold-based Financial and Trade Sanctions Circumvention

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This Red Alert is issued by the National Economic Crime Centre (NECC), a multi-agency unit in the National Crime Agency (NCA), HM Treasury's Office of Financial Sanctions Implementation (OFSI) and the Foreign, Commonwealth & Development Office (FCDO), working in conjunction with law enforcement and financial sector partners as part of the Joint Money Laundering Intelligence Taskforce (JMLIT). The JMLIT is managed in the NECC and was established to ensure a more collaborative approach between law enforcement and the banking and wider private sector.

This Alert is devised with the aim of promoting awareness and bringing about preventative action. We recommend you use this Alert to complement existing knowledge and support ongoing improvements to your business processes and procedures.

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Overview

This alert is issued by the JMLIT+ Financial Sanctions Circumvention Cell of the Money Laundering Public-Private Threat Group (ML PPTG), with representation from government, law enforcement and private industry.

The purpose of this Alert is to provide information on common techniques sanctioned individuals and entities, and their enablers, are suspected to be using to evade sanctions related to gold. The London Over the Counter (OTC) market has historically been the centre of the gold trade and attracts participants from all around the world. They are responsible for setting the twice daily global reference benchmark for gold.

Traders, financial institutions and other market participants should ensure that, as part of their due diligence, they are aware of the common circumvention techniques set out in this alert, and the risks and obligations in relation to Russia sanctions and gold.

What we would like you to do

The National Crime Agency (NCA) is a national law-enforcement agency which leads the UK's fight to cut serious and organised crime. The NCA Alerts process is the way in which we provide information to non-law enforcement bodies including the private sector to combat and disrupt serious crime. To help us to improve this service, we would welcome any feedback you have on both the Alert itself and the information provided to you. Please email all feedback to alerts@nca.gov.uk and include the reference **0731-NECC** in the subject line.

If you identify activity which may be indicative of the typology detailed in this report, and your business falls under the regulated sector, you may wish to make a Suspicious Activity Report [SAR]. If you decide to make a report in this way you should adopt the usual mechanism for doing so, and it will help our analysis if you would include **XXJMLXX** within the text and the reference **0731-NECC** for this alert. Further information and guidance is available at: <https://www.nationalcrimeagency.gov.uk/what-we-do/crime-threats/money-laundering-and-illicit-finance/suspicious-activity-reports>

The NCA would also welcome any information identified as a result of this Alert which does not constitute a SAR. Please email all such information to jmlit@nca.gov.uk. Any information received in this way will be treated in confidence and will be handled in line with the data protection principles.

HM Treasury's Office of Financial Sanctions Implementation (OFSI) is the UK's competent authority for the implementation of financial sanctions. If you identify information that is indicative of either a frozen asset or of a breach of financial sanctions, such as dealing with frozen assets or funds involving a designated person, then you must report this to OFSI. Please email all such information to OFSI@hmtreasury.gov.uk

HM Revenue & Customs (HMRC) is responsible for the criminal enforcement of UK export controls and trade sanctions, including the import of suspected new Russian gold into the UK.

HMRC undertakes a preliminary assessment of all credible intelligence/allegations of trade sanctions offences. To deal with these offences, HMRC has a range of enforcement options available such as education, warning letters, issuing compound settlements, seizures / disruptions and in the most serious of cases, referral to the Crown Prosecution Service for consideration for prosecution.

In addition to the reporting mechanisms mentioned by the National Crime Agency and OFSI, suspicious activity can be reported to HMRC online via www.gov.uk/report-tax-fraud or by calling the HMRC fraud hotline on 0800 788 887 (+44 203 080 0871 if outside the UK).

Information Report

Relevant sanctions measures

The Russia (Sanctions) (EU Exit) Regulations 2019 (the Russia Regulations) impose financial, trade, aircraft, shipping and immigration sanctions for the purposes of encouraging Russia to cease actions which destabilise Ukraine, or undermine or threaten the territorial integrity, sovereignty or independence of Ukraine, and promoting the payment of compensation by Russia for damage, loss or injury suffered by Ukraine on or after 24th February 2022 as a result of Russia's invasion of Ukraine.

Trade Measures

The trade measures in Chapters 4J and 4JA prohibit the import to the UK of gold, processed gold and gold jewellery which was exported from Russia on or after 21 July 2022.

The measures also prohibit the provision of technical assistance, financial services or funds, and brokering services relating to the import, direct or indirect acquisition of gold, processed gold and gold jewellery where the intention is for the gold to enter the UK.

The import of Russian gold which was exported from Russia prior to 21/07/22 is not prohibited.

Financial Measures

The Sanctions & Anti-Money Laundering Act (SAML) 2018 contains the power to make provision with extra-territorial application. The Russia Regulations, combined with relevant Overseas Territories and Crown Dependencies legislation and Orders in Council, applies to all persons in England, Wales, Scotland, Northern Ireland, as well as UK persons overseas and in the Crown Dependencies and Overseas Territories.

Under the Russia (Sanctions) (EU Exit) Regulations 2019, there are five financial sanctions prohibitions (regulations 11-15) that prohibit dealing with the frozen assets of a Designated Person (DP), or anything they own or control, or directly or indirectly making funds or economic resources (assets) available to, or for the benefit of, that DP.

Other financial restrictions include regulation 18A - the prohibition on the provision of financial services for the purpose of foreign exchange reserve and asset management includes gold bullion. It is prohibited to provide financial services to carry out transactions with the Central Bank of the Russian Federation involving its gold.

Relevant financial sanctions evasion offences

Regulation 19 provides a circumvention offence of intentionally participating in activities knowing that the object or effect of them (whether directly or indirectly) is to circumvent the sanctions prohibitions or to enable or facilitate the contravention of any such prohibitions. This circumvention offence may apply where enablers are seeking to obstruct other parties from carrying out necessary due diligence to meet their own sanctions obligations. This could include misrepresenting entities that are owned/controlled by the DP, or by adopting overtly aggressive strategies to deflect from the DP's underlying ownership and control.

As sanctions breaches or circumvention of the regulations constitute criminal offences, this means the onward transfer of funds or assets may represent recoverable property under the Proceeds of Crime Act 2002.

Common circumvention techniques summary

Gold is a significant income stream for Russia's war effort – one of the highest by value after oil and gas, worth £12.6 billion to the Russian economy in 2021. Gold is also used as an alternative means of exchange. Russia is the third biggest producer of mined gold (over 300 tons per year) and is using gold as a means to circumvent and undermine the impact of UK and others' sanctions regime.

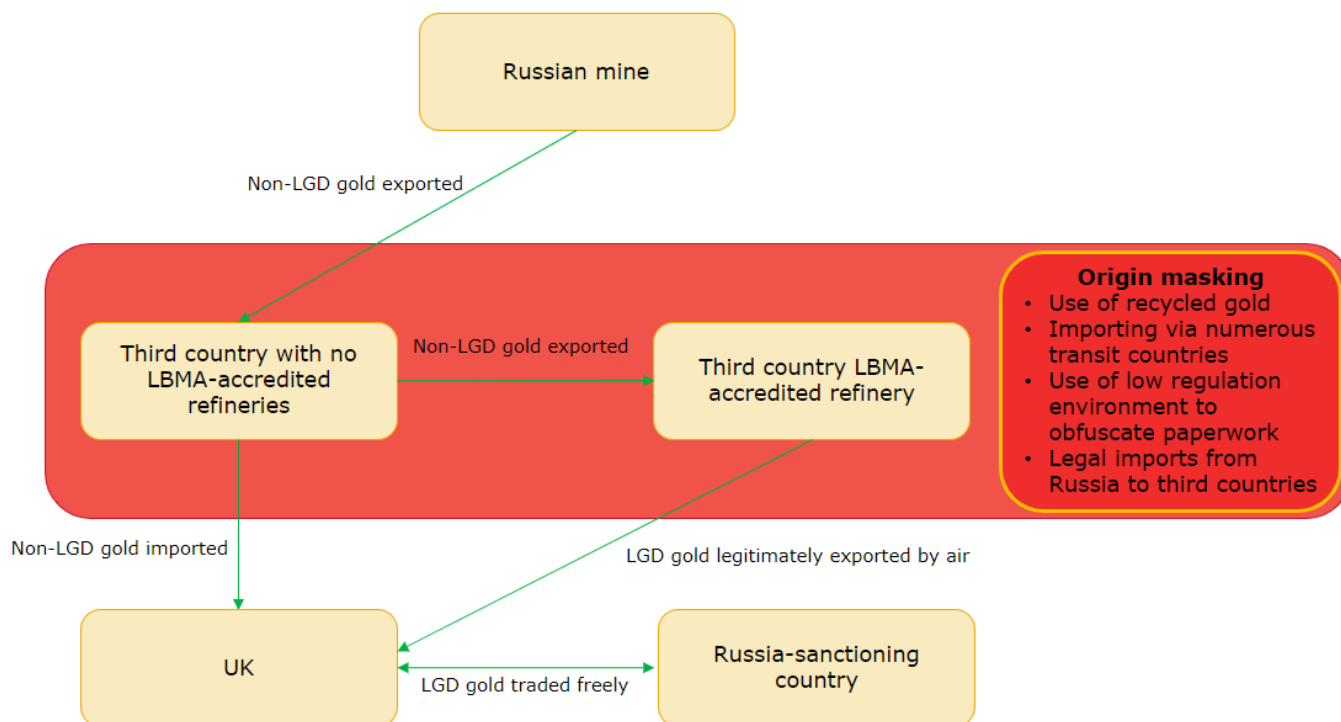
The gold market globally is separated into the formal and informal markets. The formal Physical Market in London is self-regulated by the London Bullion Market Association (LBMA). The LBMA accredits gold refineries around the world and sets the standards for what constitutes 'London Good Delivery' (LGD) gold which have become the "de facto" global standards. Those standards include compliance with UK, EU and US sanctions. LBMA accredited refineries ("Good Delivery List" or "GDL") account for around 85-92% of annual global mined gold production. Gold held as an asset or traded in the Physical London Market must meet these standards. Less data is available on the informal market which centres around UAE, China and India, with a wide variety of uses from jewellery, manufacturing, or bullion held outside of more formal channels.

Given the unprecedented range of sanctions imposed against Russia, and the importance of the UK to the Russian gold market prior to sanctions, it is likely that certain entities that continue to support Russia may seek to purchase discounted gold for cash, as well as supply Russia with controlled services relating to gold production. This may present opportunities for designated entities and their enablers to circumvent trade sanctions, and an incentive to use existing money laundering networks to bring Russian gold into the UK market.

There is a concern that deliberate attempts are being made to launder sanctioned gold to mask its origin for circumvention purposes, so that it can be hidden in supply chains and sold in the UK. In particular, there are concerns about operations via other globally significant gold hubs with refining capacity, that have not applied sanctions against Russia and/or are viewed as low enforcement jurisdictions.

Gold exported from Russia since 21 July 2022 is increasingly being shipped to countries that do not apply sanctions on Russian gold. These countries act in a similar way to transit countries and facilitate circumvention of the UK's import ban on new Russian gold. Once melted down and recast or refined, the origin cannot be determined by examination, as any hallmarks are lost. Imports of mined gold can also be easily disguised. By masking the origin, new Russian gold can then be sold on to another country who may be unaware of the true origin. Supply chain tracing is therefore highly reliant on record keeping. See further industry guidance below for OECD guidance on best practice for supply chain management is below.

LBMA GDL Refiners must be able to demonstrate where every gram of gold is sourced from and what form it was received. These GDL refiners are subject to an independent, third-party audit on an annual basis.



Worked example:

- Russian gold is imported into a third country that hasn't imposed sanctions and/or is a low enforcement jurisdiction.
- This third country importing the Russian gold has a mix of both LBMA-accredited refiners and non-accredited refiners.
- These illicit bars are transformed by the non-accredited refiner into new branded bars.
- These newly branded non-LGD bars are used as jewellery feedstock as the banks cannot take them (but the local jewellery industry can).
- The jewellery produced is eventually scrapped and either exported to a third country, or is transformed in-country by either the LBMA-accredited or non-accredited refiner.
- If bought by an LBMA-accredited refiner the gold enters the LGD system.

Typologies for circumventing the new Russian gold import ban

It is necessary to separate out the different forms of gold as circumvention typologies will likely be tailored for each.

Mined gold (also referred to as primary gold)

Mined gold originates from Large and/or Medium-Scale Mines (LSM) or Artisanal and Small-Scale Mines (ASM), and has never been previously refined. Mined gold means any gold or gold-bearing material produced by or at a mine, in any form, shape and concentration. Mined gold is transported by air and sea to the place where it will be refined.

Risks include limited assay checks on imports, and that imports may have been blended prior to arrival, mixing licit and illicit mined gold. The variable quality and therefore value of ore, concentrate and doré, makes spot checks more complex for port authorities.

LSM mines that are members of the World Gold Council (WGC) are subject to the WGCs Responsible Gold Mining Principles (RGMP).

Recycled/scrap gold

Recycled/scrap gold traditionally encompasses anything that is gold-bearing and has not come directly from a mine in its first gold life cycle. It can be refined in commercial refineries, jewellery workshops or by non-professional individuals.

There is not a specific import mode for Recycled/Scrap gold. It can be imported into the UK through various means including commercial imports by air and as passenger merchandise in baggage. Risks include limited checks on imports and the difficulty of proving Russian origin, failure to declare imports and abuse of personal items exemptions.

A key risk indicator here might be newly incorporated companies which commence gold import/exports, or previously incorporated structures moving into gold import/export or resurrecting dormant gold import/export activity. This could suggest the melting of jewellery into bars in the UK, their export to jurisdictions with established gold markets and the importing of more jewellery in a cycle.

Investment gold

Investment gold is gold that is minted or transformed into a form suitable for trading, such as coins, ingots or bars.

London Good Delivery Bars (weighing around 400 troy oz, >99.5% pure gold) are the basis of the physical London Market. There are currently around 700,000 of these bars stored in the London Vaults of LBMA Members as well as the Bank of England.

Globally, a significant amount of physical trade is in the form of kilobars (1kg, 99.5/99.9/99.99% purity), other smaller denominations as well as bullion and investment coins.

Only LBMA accredited refineries may produce London Good Delivery Bars (LGDB). Accreditation requires compliance with UK sanctions regardless of geographical location.

Given the increasing demand for recycled gold from legitimate entities keen to reduce their environmental impact from mining, there is a risk that new Russian gold enters the supply chain as

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mislabeled recyclable gold. This may take the form of 'unprocessed' recyclable gold such as scrap and jewellery, or scrap that has been melted down for ease in rudimentary bars (doré).

There are no LBMA accredited gold refineries in the UK, as UK refineries are small scale (Gold Refineries must produce a minimum of 10t of refined gold for GDL status). Many other countries also accept Good Delivery gold as a means of ensuring sanctions compliance as well as quality. Transport is via air, with secure road transport to vaults. Transport is undertaken by specialised secure transport companies.

Risks include difficulties in supply chain checks on recycled gold, and accidental or deliberate errors in the supply chain such as mixing of legitimate and illegitimate mined gold at ports. This is more likely given the change in gold flows now Russia cannot export Good Delivery to the UK.

Global flows of gold through the "formalised" market are monitored by both the LBMA and Commercial data providers. Any anomalous flows are interrogated to ensure integrity.

Gold for jewellery and finished articles

This may be gold used for luxury items including jewellery or watches. Risks include those set out above for recycled or scrap gold or mined gold.

Supply chains for such items are likely to include gold from Artisanal Small-Scale Mining (ASM) or from informally recycled gold.

Additional risks include the limited influence small businesses may have on suppliers, and for businesses with refining and or recasting capability the difficulty of origin checks on gold brought into businesses for recasting.

Businesses and refineries of any size must ensure adherence to UK sanctions.

The Responsible Jewellery Council's Code of Practices is mandatory for their member organisations in the UK, and provides guidance on supply chain checks.

Use of gold-based financial securities

Not all gold is traded in physical transactions. Gold transactions can often be cash-settled, which means no physical delivery is required and still allows investors to profit from changes in its underlying value.

For profits related to these good-based financial transactions that are returned to persons connected with Russia, there is a potential risk that they could be in breach of sectoral sanctions set out above, depending on when the underlying gold was sourced.

It should be noted that the main market for gold futures is not based in the UK. Yet there are UK-based gold Exchange Traded Funds (ETFs) that give investors exposure to gold without having to directly purchase, store and resell the precious metal.

UK sanctions on gold do not require funds to sell their gold holdings that originated in Russia before 21 July 2022. However, banks and financial firms are expected to undertake appropriate due diligence (referring to the indicators below) on any acquisition of new Russian gold for ETFs or other financial securities to ensure that they have not been sourced in Russia after this cut-off date.

Indicators

The UK government is targeting those using gold to circumvent sanctions and enablers involved with assisting Designated Persons (DPs) in circumventing sanctions via gold. Enablers may become a target of sanction designations themselves where they can be demonstrated to be acting on behalf of, or at the direction of, a DP, such as in the obfuscation of assets. The following indicators of sanctions circumvention have been identified through open source reporting, expert bodies such as the OECD and through working with private industry.

Below are key indicators relevant to different types of gold. Please note this list is non-exhaustive, and more than one category may apply to a product.

Mined gold

- Suspicious cargo movements, including use of dark fleet vessels and private jets
- Incomplete or incorrect paperwork such as bills of lading
- Cash based transactions
- Gold originates from or has been transported through a conflict-affected or high-risk area
- Gold is claimed to originate from a country that has limited known reserves or stocks, likely resources or expected production levels of gold (i.e. the declared volumes of gold from that country are out of keeping with its known reserves or expected production levels)
- Gold is claimed to originate from a country through which gold from conflict-affected and high-risk areas is known or reasonably suspected to transit
- The gold is claimed to originate from recyclable/scrap or mixed sources and has been refined in a country where gold from conflict-affected and high-risk areas is known or reasonably suspected to transit

Recycled/Scrap gold

- New recycled gold provider/s without an established trading reputation or limited ability to verify upstream supply chain
- New customers demanding high volumes of recycled gold in supply chain
- Suppliers or other known upstream companies operate in one of the above-mentioned red flag locations of gold origin and transit, or have shareholder or other interests in suppliers of gold from one of the above-mentioned red flag locations of gold origin and transit
- Suppliers or other known upstream companies are known to have sourced gold from a red flag location of gold origin and transit in the last 12 months
- Cash based transactions

Investment gold

- Incomplete or incorrect paperwork – e.g. an absence of confirming declaration with HMRC via the Customs Declaration Scheme. For Russian branded bars produced before March 2022, evidence must be provided to prove that the bar was outside of Russia (for more information see the reference on Russian Good Delivery Bars below)
- A trader is not able to provide an Economic Operators Registration and Identification (EORI) number on request. An EORI is required for a business to apply for Inward Processing Relief (IPR) or Outward Processing Relief (OPR) to secure applicable relief from VAT or import duties
- If gold is being exported, it should be accompanied by an assay certificate from one of the UK's four assay offices, which identifies the carat and quantity of gold being exported. London Good Delivery (LGD) bars do not require an assay certificate
- At re-import, if the gold has been made into jewellery it should include documentation from the jewellery manufacturer evidencing that gold of the same carat and weight has been made into the jewellery being imported
- An absence of gold (or other precious metals) being hallmarked with cartage before sale, allowing for misrepresentation of the true value of the gold
- Gold passing between entities without proof of ownership
- Unexplained wealth on company tax returns
- Significant increase in volume of gold being processed/ volume of trade
- Use of jurisdictions in which anti-money laundering laws, anti-corruption laws, customs controls and other relevant governmental oversight laws are weakly enforced; informal banking systems operate, and cash is extensively used
- Patterns of movement that suggest organisation to obfuscate due diligence
- Cash based transactions

Gold for Jewellery

- An absence of gold (or other precious metals) being hallmarked with cartage before sale, allowing for misrepresentation of the true value of the gold
- Unusual customer patterns for recasting of existing jewellery or gold, such as high numbers of small volume transactions, or numerous customers requesting similar transactions
- Unrealistic pricing of gold for sale
- Stated origin of recycled or scrap jewellery not matching the expected quality or grade for that origin
- Cash based transactions

Further Industry Guidance

OECD

Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas 2011: <https://www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf>

Gold Supplement in 2012: <https://www.oecd.org/daf/inv/mne/GoldSupplement.pdf>

London Bullion Market Association (LBMA)

Good Delivery Rules stipulating sanctions compliance: <https://cdn.lbma.org.uk/downloads/Good-Delivery-List-Rules-Dec-2022-Final-20221212.pdf>

Responsible Gold Guidance, based on the OECD gold supplement above: <https://www.lbma.org.uk/publications/responsible-gold-guidance-v9/about-lbma>

World Gold Council

Responsible Gold Mining Principles are set out here: <https://www.gold.org/industry-standards/responsible-gold-mining>

Responsible Jewellery Council

The Responsible Jewellery Council (RJC) is a not-for-profit standard-setting and certification organisation. The Code of Practices is here: https://www.responsiblejewellery.com/wp-content/uploads/SD_RJC_COP-guidance-V1.3-December-2020.pdf

Financial Action Task Force

The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard.

The FATF Recommendations are agnostic to unilateral sanctions regimes but some of the Recommendations have relevance to this red alert, such as Recommendations 22-23 that require designated non-financial businesses and professions including dealers in precious metals and stones to apply AML/CFT measures. The FATF Recommendations are set out here: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html#:~:text=As%20amended%20February%202023,.of%20weapons%20of%20mass%20destruction>.

In 2015 the FATF and Asia/Pacific Group on Money Laundering (APG) published a joint report on the money laundering and terrorist financing risk and vulnerabilities associated with gold. The report provides a series of case studies and red flag indicators to raise awareness of the key vulnerabilities of gold and the gold market, particularly among AML/CTF practitioners and companies involved in the gold industry: <https://www.fatf-gafi.org/en/publications/Methodsand Trends/MI-tf-risks-and-vulnerabilities-gold.html>.

The UK has implemented FATF Recommendations 22-23 by regulating high value dealers under the UK Money Laundering Regulations. A high value dealer under the Money Laundering Regulations is any business or sole trader that accepts or makes high value cash payments of 10,000 euros or more (or equivalent in any currency) in exchange for goods. HMRC has developed guidance to help high value dealers meet their AML/CFT requirements: <https://www.gov.uk/government/publications/anti-money-laundering-guidance-for-high-value-dealers>

Data Protection Act

The NCA reminds you of your legal obligations in respect of the management of this information, including under the Data Protection Act 2018.

Article 5(1) requires that personal data shall be:

1. Processed lawfully, fairly and in a transparent manner;
2. Collected for a specified, explicit and legitimate purpose and not further processed in a manner that's incompatible with these purposes;
3. Adequate, relevant and limited to what's necessary in relation to the purpose for which they are processed;
4. Accurate and where necessary kept up to date;
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the personal data are processed;
6. Processed in a manner that ensures appropriate security of the personal data.

Suspicious Activity Reporting [SARs]

If you know or suspect that there has been money laundering or terrorist financing activity (including as a result of information provided to you by the NCA) and your business falls within the regulated sector, then you are reminded of the obligations to make reports to the NCA under Part 7 Proceeds of Crime Act 2002 and the Terrorism Act 2000. If you decide to make a report in this way you should adopt the usual mechanism for doing so, and it will help our analysis if you would include the reference **0731-NECC** within the text. This reference is specific to the Alerts process; where appropriate, we would ask that this is used *in addition* to the ongoing use of the Glossary of Terms. Guidance on making suspicious activity reports is available at www.nationalcrimeagency.gov.uk.

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Alert Markings

NCA Alerts are marked either Red or Amber. This is designed to indicate the urgency of the warning. Red may indicate a more immediate or specific threat, whilst those marked Amber will provide more general information that may complement existing knowledge.

NCA Alerts Team

Recognising that the private sector is often the victim of serious organised crime and is engaged in its own efforts to prevent, deter and frustrate criminal activity, the NCA seeks to forge new relationships with business and commerce that will be to our mutual benefit – and to the criminals' cost. By issuing Alerts that warn of criminal dangers and threats, NCA seeks to arm the private sector with information and advice it can use to protect itself and the public. For further information about this NCA Alert, please contact the NCA Alerts team by email alerts@nca.gov.uk. For more information about the National Crime Agency go to www.nationalcrimeagency.gov.uk.

Protecting the Public – Providing information back to the NCA

Section 7(1) of the Crime and Courts Act 2013 allows you to disclose information to the NCA, provided the disclosure is made for the purposes of discharging the NCA's functions of combating serious, organised and other kinds of crime. The disclosure of such information to the NCA will not breach any obligation of confidence you may owe to a third party or any other restrictions (however imposed) on the disclosure of this information. The disclosure of personal information about a living individual by you to the NCA must still comply with the provisions of the Data Protection Act 2018 (DPA). However, you may be satisfied that the disclosure by you of such personal information to the NCA in order to assist the NCA in carrying out its functions may be permitted by Schedule 2, Part 1 of the DPA 2018. This allows a data controller to be exempt (by means of a restriction or adaption) from provisions of the GDPR, if the personal data is processed for the following purposes:

- a) the prevention or detection of crime,*
- b) the apprehension or prosecution of offenders, or*
- c) the assessment or collection of a tax or duty or an imposition of a similar nature,*
to the extent that the application of those provisions of the GDPR would be likely to prejudice any of the matters mentioned in paragraphs (a) to (c).
(DPA 2018, Schedule 2, Part 1).

Any Section 7(1) information should be submitted to alerts@nca.gov.uk. The NCA's Information Charter is published on our external website at www.nca.gov.uk.

Handling advice – Legal information

This information is supplied by the UK's NCA under Section 7(4) of the Crime and Courts Act 2013. It is exempt from disclosure under the Freedom of Information Act 2000. It may be subject to exemptions under other UK legislation. Except where permitted by any accompanying handling instructions, this information must not be further disclosed without the NCA's prior consent, pursuant to schedule 7, Part 3, of the Crime and Courts Act 2013.

This report may contain 'Sensitive Material' as defined in the Attorney General's guidelines for the disclosure of 'Unused Material' to the defence. Any sensitive material contained in this report may be subject to the concept of Public Interest Immunity. No part of this report should be disclosed to the defence without prior consultation with the originator.

Requests for further disclosure which are not permitted by any handling instructions or handling code must be referred to the NCA originator from whom you received this information, save that requests for disclosure to third parties under the provisions of the Data Protection Act 2018 or the Freedom of Information Act 2000 and equivalent legislation must be referred to the NCA's Statutory Disclosure Team by e-mail on statutorydisclosureteam@nca.gov.uk.