

Panel 2: Freezing Injunctions and Associated ReliefSanctions, Fortification, and Freezers: VTB Bank PJSC v Kuanyshev & Ano

Three recent decisions: [2026] EWHC 591 (Comm), [2026] EWHC 1983 (Comm), [2026] EWHC 2140 (Comm)

1. **Fortification Order** — [2026] EWHC 591 (Comm) (16 March 2026)

- On 9 February, Bright J had granted WFO *ex parte*; £100,000 ‘ring-fenced’ as fortification.
- Return date: amount of fortification increased to £500,000 applying *Energy Venture Partners Ltd v Malabu Oil and Gas Ltd* [2014] EWCA Civ 1295, [52]–[53].
- VTB ordered to pay into court and to pursue necessary OFSI/OFAC licences expeditiously: anticipated OFSI licensing delay meant better to “*erode that period now, rather than later.*”

2. **Discharge Order** — [2026] EWHC 1983 (Comm) (28 July 2026)

- Nearly six months later: fortification still unpaid.
- Fortification is the “*price*” of a WFO, applying *Commodity Ocean Transport Corp v Basford Unicorn Industries Ltd (The Mito)* [1987] 2 Lloyd’s Rep 197 and *Thai-Lao Lignite (Thailand) Co Ltd v Government of the Lao People’s Democratic Republic* [2013] EWHC 2466 (Comm).
- Designated status justified some latitude, not indefinite relief without protection. “*Six months is the longest that could possibly be thought appropriate*” [26]. Final deadline: 10 August, with stay of execution until 31 August pending appeal.
- On 28 August 2026, Court of Appeal refused PTA on the papers; WFO discharged.

3. **Set-Aside Decision** — [2026] EWHC 2140 (Comm) (30 July 2026)

Set aside grounds: (i) sanctions; (ii) section 25 of the Civil Jurisdiction and Judgments Act 1982; (iii) no legitimate right of enforcement against the assets of D2, who was a non-cause of action defendant (issue deferred pending proceedings in Kazakhstan).

a. **Breach of Russia (Sanctions) (EU Exit) Regulations 2019, regulations 11–15**

- *Mints & Ors v PJSC National Bank Trust & Anor* [2023] EWCA Civ 1132: “*making funds available’ might well be apt to describe an order enforcing a judgment, but not entering the judgment.*” Flaux C, [201]–[203].
- Defendants argued that WFO fell on enforcement side, relying on *Convoy Collateral Ltd v Broad Idea International Ltd* [2021] UKPC 24.
- Dias J dismissed the challenge. The WFO is *in personam*, creates no proprietary interest and makes no assets available, while asset disclosure order is too remote from any financial benefit [36]–[50]. PTA granted.

b. **Section 25(2) of the Civil Jurisdiction and Judgments Act 1982: ‘inexpediency’**

- Key authorities: *Credit Suisse Fides Trust SA v Cuoghi* [1998] QB 818; *Refco Inc v Eastern Trading Co* [1999] 1 Lloyd’s Rep 159; *Motorola Credit Corporation v Uzan* [2003] EWCA Civ 752; *Ryan v Friction Dynamics Ltd* [2001] EWCA Civ 707; *VTB v Skurikhin* [2014] EWHC 2254 (QB).
- Dias J held WFO was not inexpedient but carved out D1’s Kazakh assets from the scope of the WFO, following *Skurikhin*, [58]–[64]

Panel 2: Freezing Injunctions and Associated Relief

Post-judgment freezing injunction:

1. General approach

- *Great Station Properties SA v UMS Holding Ltd* [2017] EWHC 3330 (Comm), at [63] (Teare J)
- *Emmott v Michael Wilson & Partners* [2019] EWCA Civ 219, at [53] (Gross LJ)

2. Requirements

- Recent case in the post-judgment context: *Griffin Underwriting Limited v Ion G Varouxakis* [2021] EWHC 226 (Comm), at [29] (Calver J)
- Good arguable case at the post-judgment stage: *Great Station Properties SA v UMS Holding Ltd*, at [56]
- Risk of dissipation: *National Bank Trust v Yurov* [2016] EWHC 1913, at [70] (Males J)
- Other factors: *Griffin Underwriting Limited v Ion G Varouxakis* [2021] EWHC 226 (Comm), at [29]
- Factors are considered cumulatively: *Lakatamia Shipping Co. Ltd v. Toshiko Morimoto* [2020] 2 All E.R. (Comm) 359 at [34(7)].

3. Terms of the order

- The ordinary course of business exception:
 - From the suggestion of a presumption: *Masri v Consolidated Contractors International Co SAL* [2008] EWHC (Comm) at [24] and [35] (Tomlinson J)
 - To a simple inclination: *Nomihold Securities Inc v Mobile Telesystems Finance SA* [2011] EWCA Civ 1040 at [33] (Tomlinson LJ)
 - Relevant factors: *Wilson v Emmott*, at [56]- [66]
 - The relevance of a pending appeal: *Fibula Air Travel SRL v Just Us Air SRL* [2026] EWHC 1270 (Comm).