

Regulations made by the Secretary of State, laid before Parliament under section 55(3) of the Sanctions and Anti-Money Laundering Act 2018, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the instrument is made, subject to extension for periods of dissolution or prorogation or during which both Houses are adjourned for more than four days.

STATUTORY INSTRUMENTS

2022 No. 194

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2022

Made	- - - -	at 8.10 p.m. on 28th February 2022
Laid before Parliament		at 11.00 p.m. on 28th February 2022
Coming into force	- -	1st March 2022

The Secretary of State⁽¹⁾, considering that the requirements of section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ are met, makes the following Regulations in exercise of the powers conferred by sections 1, 3(1)(b)(ii) and (iii), (c)(ii) and (iii), (d)(ii) and (iii) and (f), 3(2)(a), 9(2)(a), 10(2)(a) and (c), 11, 15(2)(a) and (b) and (3), 16, 17 and 45 of that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 2) Regulations 2022.

(2) These Regulations come into force on 1st March 2022.

Amendment of the Russia (Sanctions) (EU Exit) Regulations 2019

2. The Russia (Sanctions) (EU Exit) Regulations 2019⁽³⁾ are amended as set out in regulations 3 to 14.

(1) The power to make regulations under Part 1 of the Sanctions and Anti-Money Laundering Act 2018 (c. 13) is conferred on an appropriate Minister. Section 1(9)(a) of the Act defines an “appropriate Minister” as including the Secretary of State.

(2) 2018 c. 13. Section 17(5)(b)(i) (enforcement) is amended by the Sentencing Act 2020 (c. 17), Schedule 24, paragraph 443(1).

(3) S.I. 2019/855, as amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; and by the Sentencing Act 2020 (c. 17).

Power to designate persons

3. In paragraph (1) of regulation 5 (power to designate persons), after sub-paragraph (a) insert—
 “(aa) regulation 17A (correspondent banking relationships etc.);”.

Financial restrictions

4. In the heading of Chapter 1 of Part 3 (Finance), for “Finance restrictions in relation to designated persons” substitute “Asset-freeze etc.”.

Dealing with transferable securities or money-market instruments

5. In regulation 16 (dealing with transferable securities or money-market instruments)—
- (a) after paragraph (4) insert—
- “(4A) A person (“P”) must not, directly or indirectly, deal with a transferable security or money-market instrument falling within paragraph (4B) if P knows, or has reasonable cause to suspect, that P is dealing with such a transferable security or money-market instrument.
- (4B) A transferable security or money-market instrument falls within this paragraph if it has a maturity exceeding 30 days and is issued on or after 1st March 2022 by—
- (a) a person, other than an individual, which is—
- (i) incorporated or constituted under the law of any part of the United Kingdom, and
- (ii) owned by a person falling within Schedule 2; or
- (b) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (a).
- (4C) A person (“P”) must not, directly or indirectly, deal with a transferable security or money-market instrument falling within paragraph (4D) if P knows, or has reasonable cause to suspect, that P is dealing with such a transferable security or money-market instrument.
- (4D) A transferable security or money-market instrument falls within this paragraph if it is issued on or after 1st March 2022 by—
- (a) a person connected with Russia, which is not—
- (i) a person falling within Schedule 2,
- (ii) a person, other than an individual, which on 1st March 2022 is domiciled in a country other than Russia, or
- (iii) a person, other than an individual, which on 1st March 2022 is a branch or subsidiary, wherever located, of a person mentioned in paragraph (ii);
- (b) a person, other than an individual, which is owned by a person falling within sub-paragraph (a); or
- (c) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (a) or sub-paragraph (b).
- (4E) A person (“P”) must not, directly or indirectly, deal with a transferable security or money-market instrument falling within paragraph (4F) if P knows, or has reasonable cause to suspect, that P is dealing with such a transferable security or money-market instrument.
- (4F) A transferable security or money-market instrument falls within this paragraph if it is issued on or after 1st March 2022 by, or on behalf of, the Government of Russia.”;

(b) for paragraph (5) substitute—

“(5) Paragraphs (1), (3), (4A), (4C) and (4E) are subject to Part 7 (Exceptions and licences).”;

(c) in paragraph (6), for “(1) or (3)” substitute “(1), (3), (4A), (4C) and (4E)”.

Loans and credit arrangements

6. In regulation 17 (loans and credit arrangements)—

(a) in paragraph (3), for “regulations 59 and 63 (exceptions)” substitute “Part 7 (Exceptions and licences)”;

(b) in paragraph (5)—

(i) at the appropriate place insert—

““category 1 loan” means a loan or credit—

(a) with a maturity exceeding 30 days,

(b) made or granted to—

(i) a person falling within Schedule 2,

(ii) a person, other than an individual, which is—

(aa) incorporated or constituted under the law of a non-UK country, and

(bb) owned (within the meaning of regulation 16(7)) by a person within paragraph (i), or

(iii) a person, other than an individual, acting on behalf or at the direction of a person within paragraph (i) or paragraph (ii), and

(c) which is first made or granted at any time after IP completion day;

“category 2 loan” means a loan or credit—

(a) with a maturity exceeding 30 days,

(b) made or granted to a person, other than an individual, which is—

(i) incorporated or constituted under the law of any part of the United Kingdom, and

(ii) owned (within the meaning of regulation 16(7)) by a person falling within Schedule 2, and

(c) which is first made or granted at any time on or after 1st March 2022;

“category 3 loan” means a loan or credit—

(a) with a maturity exceeding 30 days,

(b) made or granted to a person, other than an individual, which is—

(i) connected with Russia,

(ii) owned (within the meaning of regulation 16(7)) by a person within sub-paragraph (i), or

(iii) a person, other than an individual, acting on behalf or at the direction of a person within paragraph (i) or paragraph (ii),

(c) which is first made or granted at any time on or after 1st March 2022, and

(d) which is not—

(i) a category 1 loan, a category 2 loan or a category 4 loan, or

- (ii) a loan made or granted to—
 - (aa) a person, other than an individual, which on 1st March 2022 is domiciled in a country other than Russia,
 - (bb) a person, other than an individual, which is owned by a person falling within sub-paragraph (aa), or
 - (cc) a person, other than an individual, acting on behalf or at the direction of a person within sub-paragraph (aa) or sub-paragraph (bb);
- “category 4 loan” means a loan or credit—
 - (a) made or granted to the Government of Russia,
 - (b) which is first made or granted at any time on or after 1st March 2022;”
- (ii) for the definition of “relevant loan” substitute—
 - ““relevant loan” means a category 1 loan, a category 2 loan, a category 3 loan or a category 4 loan;”;
- (iii) omit the definition of “relevant person”.

Correspondent banking relationships etc.

7. After regulation 17 (loans and credit arrangements) insert—

“Correspondent banking relationships etc.

17A.—(1) A UK credit or financial institution (“C”) (“the correspondent”) must not establish or continue a correspondent banking relationship with the following (“the respondent”)—

- (a) a designated person (“D”),
- (b) a UK credit or financial institution, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by D, or
- (c) a non-UK credit or financial institution, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by D,

if C knows, or has reasonable cause to suspect, that the correspondent banking relationship is with a designated person.

(2) C must not process a sterling payment to, from or via –

- (a) D,
- (b) a UK credit or financial institution, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by D, or
- (c) a non-UK credit or financial institution, which is owned or controlled directly or indirectly (within the meaning of regulation 7) by D,

if C knows, or has reasonable cause to suspect, that the sterling payment is to, from or via such a person.

(3) Paragraphs (1) and (2) are subject to Part 7 (Exceptions and licences).

(4) A person who contravenes a prohibition in paragraph (1) or (2) commits an offence.

(5) For the purposes of this regulation, a reference to ‘processing’ a sterling payment includes the clearing and settlement of such a payment.

(6) In this regulation—

“correspondent banking relationship” means the provision of banking services by a correspondent to a respondent including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the respondent with direct access to accounts with the correspondent (and vice versa) and providing foreign exchange services;

“designated person” means a person who is designated under regulation 5 (power to designate persons) for the purposes of this regulation;

“non-UK credit or financial institution” means—

- (a) a person, other than an individual, which would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000⁽⁴⁾ if it had its registered office (or if it does not have one, its head office) in the United Kingdom, or
- (b) an undertaking, other than a UK credit or financial institution, which by way of business—
 - (i) operates a currency exchange office,
 - (ii) transmits money (or any representation of monetary value) by any means, or
 - (iii) cashes cheques that are made payable to customers;

“UK credit or financial institution” means—

- (a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activities), or
- (b) an undertaking domiciled in the United Kingdom which by way of business—
 - (i) operates a currency exchange office,
 - (ii) transmits money (or any representation of monetary value) by any means, or
 - (iii) cashes cheques that are made payable to customers.”

Interpretation of Part 3

8. After regulation 19 insert—

“Interpretation of Part 3

19A.—(1) In this Part—

“branch” means, in relation to a credit or financial institution, a place of business which forms a legally dependent part of that institution and which carries out all or some of the transactions inherent in the business of that institution;

“credit or financial institution” means a “UK credit or financial institution” or a “non-UK credit or financial institution”;

“Government of Russia” has the same meaning as in regulation 6;

“subsidiary” has the meaning given by section 1159 of the Companies Act 2006⁽⁵⁾;

(2) For the purposes of this Part, a person is to be regarded as “connected with” Russia if the person is—

(4) 2000 c. 8. Part 4A was inserted by the Financial Services Act 2012 (c. 21), section 11(2) and most recently amended by the Financial Services Act 2021 (c. 22), section 28 and Schedule 11, paragraphs 2 and 3.

(5) 2006 c.46.

- (a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,
 - (b) an individual who is, or an association or combination of individuals who are, located in Russia,
 - (c) a person, other than an individual, which is incorporated or constituted under the law of Russia, or
 - (d) a person, other than an individual, which is domiciled in Russia.
- (3) In this Part, the definitions of—
- (a) “non-UK credit or financial institution”, and
 - (b) “UK credit or financial institution”,
- are to be read with section 22 of the Financial Services and Markets Act 2000⁽⁶⁾, any relevant order under that section⁽⁷⁾ and Schedule 2 to that Act⁽⁸⁾.”

Exceptions relating to loans and credit arrangements

9. In regulation 59 (exceptions relating to loans and credit arrangements)—
- (a) in paragraph (1)—
 - (i) omit sub-paragraph (a);
 - (ii) for sub-paragraph (c) substitute—
 - “(c) a relevant loan consisting of a drawdown or disbursement made under an arrangement entered into before—
 - (i) in the case of a category 1 loan, 15th September 2014;
 - (ii) in the case of a category 2 loan, a category 3 loan or a category 4 loan, 1st March 2022;
 where the conditions in paragraph (2) are met.”;
 - (b) in paragraph (2)(a), for paragraph (i) substitute—
 - “(i) were agreed before—
 - (aa) in the case of a category 1 loan, 15th September 2014;
 - (bb) in the case of a category 2 loan, a category 3 loan or a category 4 loan, 1st March 2022.”;
 - (c) in paragraph (3)—
 - (i) at the appropriate place insert—
 - ““category 1 loan” has the meaning given to it in regulation 17;
 - “category 2 loan” has the meaning given to it in regulation 17;
 - “category 3 loan” has the meaning given to it in regulation 17;
 - “category 4 loan” has the meaning given to it in regulation 17;”
 - (ii) omit the definition of “non-restricted trade”;
 - (iii) in the definition of “relevant subsidiary”, for paragraph (b) substitute—

⁽⁶⁾ Section 22 was amended by the Financial Guidance and Claims Act 2018 (c.10), section 27(4); the Financial Services Act 2012, section 7(1); S.I. 2017/500; and S.I. 2018/135.

⁽⁷⁾ S.I. 2001/544, as amended, most recently by SI 2021/90; and SI 2021/494.

⁽⁸⁾ Schedule 2 was amended by the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), section 1; the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15 and Schedule 2, paragraph 1; the Financial Services Act 2012, sections 7(2) to (5) and 8; the Financial Guidance and Claims Act 2018 (c.10), s.27; S.I. 2013/1881; S.I. S.I. 2018/135; and S.I. 2019/63.

- “(b) owned (within the meaning of regulation 16(7)) by a person, other than an individual, that is connected with Russia.”

Exception relating to correspondent banking relationships etc.

10. After regulation 59 (exceptions relating to loans and credit arrangements) insert—

“Exception relating to correspondent banking relationships etc.

59A. The prohibition in regulation 17A(2) (processing sterling payments) does not apply to the processing of a sterling payment for any fee or charge required to permit an aircraft to overfly, land in or take off from Russia.”

Exception for authorised conduct in a relevant country

11. In regulation 62A(1) (exception for authorised conduct in a relevant country), after “regulations 11 to 15 (asset-freeze etc.)” insert “, 16 (securities and money market instruments), 17 (loans and credit arrangements), 17A (correspondent banking relationships etc.)”.

Treasury licences

12. In regulation 64 (Treasury licences)—

- (a) in paragraph (1), after “11 to 15 (asset-freeze etc.)” insert “, 16 (securities and money market instruments), 17 (loans and credit arrangements), 17A (correspondent banking relationships etc.)”;

- (b) after paragraph (1), insert—

“(1A) Without prejudice to the generality of the powers conferred by paragraph (1), a licence issued by the Treasury under paragraph (1) may, in particular, authorise acts which would otherwise be prohibited by any of regulations 11 to 17A for a particular period beginning with—

- (a) the coming into force of the prohibition, or
(b) where the prohibition relates to a person designated for the purposes of regulations 11 to 15, or regulation 17A, the date on which the person was designated.”;

- (c) in paragraph (2), after sub-paragraph (a)—

- (i) omit “and”, and

- (ii) insert—

“(aa) in the case of acts which would otherwise be prohibited by regulation 17, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1A of Schedule 5,

(ab) in the case of acts which would otherwise be prohibited by regulation 17A, where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1B of Schedule 5,

(ac) in the case of acts which would otherwise be prohibited by regulation 17A(2) (processing sterling payments), where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 1C of Schedule 5, and”;

- (d) Part A1 of Schedule 5 has effect for the purposes of interpreting that Schedule.

Finance: powers to request information

- 13.** In regulation 72 (finance: powers to request information)—
- (a) in paragraph (5), in sub-paragraph (c), after “regulation” insert “, 16 (securities and money market instruments), 17 (loans and credit arrangements), 17A (correspondent banking relationships etc.) or”;
 - (b) in paragraph (13), after “as they have in” insert “Chapter 1 of”.

Treasury licences: purposes

- 14.** In Schedule 5 (Treasury licences: purposes)—
- (a) at the beginning insert a new Part A1—

“PART A1

Interpretation

Interpretation of Schedule 5

A1. In this Schedule—

“consular post” has the same meaning as in the Vienna Convention on Consular Relations done at Vienna on 24 April 1963⁽⁹⁾, and any reference to the functions of a consular post is to be read in accordance with that Convention;

“diplomatic mission” and any reference to the functions of a diplomatic mission are to be read in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961⁽¹⁰⁾;

“humanitarian assistance activity” includes the work of international and non-governmental organisations carrying out relief activities for the benefit of the civilian population of a country;

“medical goods” includes medicines and medical devices;

“spaceflight activity” has the meaning given in section 1(6) of the Space Industry Act 2018⁽¹¹⁾.”;

- (b) in the heading of paragraph 1, after “Interpretation” insert “of Part 1”;
- (c) in paragraph 1, in the definition of “designated person”, for “Finance restrictions in relation to designated persons” substitute “Asset-freeze etc.”;
- (d) in paragraph 9, omit sub-paragraph (2);
- (e) after paragraph 9 insert—

“Humanitarian assistance activity

9A. To enable anything to be done in connection with the performance of any humanitarian assistance activity.

⁽⁹⁾ United Nations Treaty Series, vol. 596, p.261.

⁽¹⁰⁾ United Nations Treaty Series, vol. 500, p. 95.

⁽¹¹⁾ 2018 c.5.

Medical goods or services

9B.—(1) To enable anything to be done in connection with the provision of medical goods or services for the benefit of the civilian population of a country.

(2) To enable the import, export or use of medical goods.

Food

9C. To enable anything to be done in connection with the production or distribution of food for the benefit of the civilian population of a country.

Diplomatic missions etc.

9D.—(1) To enable anything to be done in order that the functions of a diplomatic mission or consular post in Russia or of an international organisation enjoying immunities in accordance with international law may be carried out.

(2) To enable anything to be done in order that the functions of a diplomatic mission or consular post of Russia in the United Kingdom may be carried out.

PART 1A

Loans and credit arrangements

Humanitarian assistance activity

9E. To enable anything to be done in connection with the performance of any humanitarian assistance activity.

Medical goods or services

9F.—(1) To enable anything to be done in connection with the provision of medical goods or services for the benefit of the civilian population of a country.

(2) To enable the import, export or use of medical goods.

Food

9G. To enable anything to be done in connection with the production or distribution of food for the benefit of the civilian population of a country.

Diplomatic missions etc.

9H.—(1) To enable anything to be done in order that the functions of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law may be carried out.

(2) To enable anything to be done in order that the functions of a diplomatic mission or consular post of Russia in the United Kingdom may be carried out.

Space

9I. To enable anything to be done in order for a United Kingdom person to undertake spaceflight activity.

Extraordinary situation

9J. To enable anything to be done to deal with an extraordinary situation.

PART 1B

Correspondent banking relationships etc.

Interpretation of Part 1B

9K. In this Part, “designated person” has the meaning given in regulation 17A.

Basic needs

9L.—(1) To enable the basic needs of a designated person, or a person owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person, to be met.

(2) In the case of a person other than an individual, in sub-paragraph (1) “basic needs” includes needs for—

- (a) payment of insurance premiums;
- (b) payment of reasonable fees for the provision of property management services;
- (c) payment of reasonable fees for the provision of insolvency services;
- (d) payment of remuneration, allowances or pensions of employees;
- (e) payment of tax;
- (f) rent or mortgage payments;
- (g) utility payments.

Legal services

9M. To enable the payment of—

- (a) reasonable professional fees for the provision of legal services to the designated person or a person owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person, or
- (b) reasonable expenses associated with the provision of legal services to the designated person (or a person owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.

Financial regulation

9N.—(1) To enable anything to be done by, or on behalf of, a relevant financial authority for the purposes of the functions of that authority.

(2) In sub-paragraph (1), “relevant financial authority” means authorities involved in the regulation of financial services in the United Kingdom, including the Financial Conduct Authority, the Prudential Regulation Authority and the Bank of England.

Extraordinary situation

9O. To enable anything to be done to deal with an extraordinary situation.

PART 1C

Sterling payments

Humanitarian assistance activity

9P.—(1) To enable anything to be done in connection with the performance of any humanitarian assistance activity.

Medical goods or services

9Q.—(1) To enable anything to be done in connection with the provision of medical goods or services for the benefit of the civilian population of a country.
(2) To enable the import, export or use of medical goods.

Food

9R. To enable anything to be done in connection with the production or distribution of food for the benefit of the civilian population of a country.

Diplomatic missions etc.

9S.—(1) To enable anything to be done in order that the functions of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law may be carried out.
(2) To enable anything to be done in order that the functions of a diplomatic mission or consular post of Russia in the United Kingdom may be carried out.

Space

9T. To enable anything to be done in order for a United Kingdom person to undertake spaceflight activity.”

(f) in paragraph 10, omit sub-paragraph (2).

Elizabeth Truss
Secretary of State for Foreign, Commonwealth
and Development Affairs
Foreign, Commonwealth and Development
Office

at 8.10 p.m. on 28th February 2022

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Sanctions and Anti-Money Laundering Act 2018 (c. 13) to amend the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) (“the 2019 Regulations”).

The Regulations add new financial sanctions to Part 3 (Finance) of the 2019 Regulations. Existing restrictions on dealing with certain financial instruments and providing loans and credit are amended to extend the sanctions prohibitions to a broader range of transferable securities and money market instruments (regulation 16 of the 2019 Regulations); and loans and credit (regulation 17). Further restrictions on correspondent banking relationships and processing of sterling payments are also introduced (in new regulation 17A of the 2019 Regulations). The amendments also introduce a power for the Secretary of State to designate persons for the purposes of that provision.

These Regulations provide for exceptions to, and for licensing powers in relation to, those prohibitions. In particular, there is provision to make clear that a licence may authorise acts which would otherwise be prohibited by any of regulations 11 to 17A for a particular period beginning with the coming into force of the prohibition, or the date of any designation made for the purposes of those provision. This would allow a period for persons affected to arrange their affairs to comply.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector has been published alongside these Regulations and is available at <https://www.gov.uk/government/collections/uk-sanctions-on-russia>, or from the Foreign, Commonwealth and Development Office, King Charles Street, London SW1A 2AH.