

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. 801

SANCTIONS

The Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022

<i>Made</i>	- - - -	<i>14th July 2022</i>
<i>Laid before Parliament</i>		<i>18th July 2022</i>
<i>Coming into force</i>	- -	<i>19th July 2022</i>

The Secretary of State⁽¹⁾, considering that the condition in section 45(2) of the Sanctions and Anti-Money Laundering Act 2018⁽²⁾ is met, makes the following Regulations in exercise of the powers conferred by sections 1, 3(1)(b)(ii) and (iii), (d)(ii) and (iii), (g)(ii) and (iii) and (2)(b) and (c), 5, 15(2)(a) and (b) and (3), 16, 17, 45(1)(b) and 62(6) of, and paragraph 9(b) of Schedule 1 to, that Act:

Citation and commencement

1.—(1) These Regulations may be cited as the Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022.

(2) These Regulations come into force on 19th July 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 10.

(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). Sections 1, 16 and 45 are amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), sections 57, 62 and 65.

(3) S.I. 2019/855, as amended by S.I. 2020/590, S.I. 2020/951, S.I. 2022/123, S.I. 2022/194, S.I. 2022/195, S.I. 2022/203, S.I. 2022/205, S.I. 2022/241, S.I. 2022/395, S.I. 2022/452, S.I. 2022/477, S.I. 2022/689; and by the Sentencing Act 2020 (c. 17).

Dealing with transferable securities or money-market instruments

3. In regulation 16(7) (dealing with transferable securities or money-market instruments), for “and 59 (exceptions relating to loans and credit arrangements)” substitute “, 59 (exceptions relating to loans and credit arrangements) and 60ZZA (exceptions relating to investments in relation to Russia)”.

Other financial and investment restrictions

4. In Chapter 2 of Part 3 (Finance), after regulation 18A (provision of financial services relating to foreign exchange reserve and asset management) insert—

“Investments in relation to Russia

18B.—(1) A person (“P”) must not carry on an activity mentioned in paragraph (2) if P knows, or has reasonable cause to suspect, that P is carrying on such an activity.

(2) The activities in this paragraph are—

- (a) directly acquiring any ownership interest in land located in Russia;
- (b) indirectly acquiring any ownership interest in land located in Russia for the purpose mentioned in paragraph (3);
- (c) directly acquiring any ownership interest in or control over a person, other than an individual, connected with Russia;
- (d) indirectly acquiring any ownership interest in or control over a person, other than an individual, connected with Russia for the purpose mentioned in paragraph (3);
- (e) directly or indirectly acquiring any ownership interest in or control over a relevant entity for the purpose mentioned in paragraph (3);
- (f) directly or indirectly establishing any joint venture with a person connected with Russia;
- (g) opening a representative office or establishing a branch or subsidiary located in Russia; or
- (h) providing investment services directly related to an activity referred to in subparagraphs (a) to (g).

(3) The purpose mentioned in paragraph 2(b), (d) and (e) above is making funds or economic resources available—

- (a) directly or indirectly to a person connected with Russia; or
- (b) for the benefit of a person connected with Russia.

(4) For the purposes of paragraph (3)—

- (a) economic resources are made available to a person connected with Russia only if that person would be likely to exchange the economic resources for, or use them in exchange for, funds, goods or services;
- (b) making funds or economic resources indirectly available to a person connected with Russia includes, in particular, a reference to making them available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person connected with Russia; and
- (c) funds or economic resources are made available for the benefit of a person connected with Russia only if that person thereby obtains, or is able to obtain, a significant financial benefit, and “financial benefit” includes the discharge (or

partial discharge) of a financial obligation for which the person connected with Russia is wholly or partly responsible.

(5) Paragraph (1) is subject to Part 7 (Exceptions and licences).

(6) A person who contravenes a prohibition in paragraph (1) commits an offence.

(7) In this regulation, the reference to a person (“P”) directly or indirectly acquiring any ownership interest in or control over a person or entity means—

(a) P directly or indirectly acquiring any share in the person or entity;

(b) P directly or indirectly acquiring any voting rights in the person or entity;

(c) P directly or indirectly acquiring any right to appoint or remove a majority of the board of directors of the person or entity; or

(d) P directly or indirectly acquiring any means of ensuring that the affairs of the person or entity are conducted in accordance with the wishes of P where it is reasonable, having regard to all of the circumstances, to expect that P would (if P chose to) in most cases or significant respects, by whatever means, be able to do so.

(8) In this regulation—

“branch” means, in relation to a person other than an individual, a place of business which forms a legally dependent part of that person and which carries out all or some of the transactions inherent in the business of that person;

“investment services” has the same meaning as it has in regulation 16 (dealing with transferable securities or money-market instruments);

“relevant entity” means a person, other than an individual, which has a place of business located in Russia but is not a person connected with Russia.”.

Circumventing etc. prohibitions

5. In regulation 19(1) (circumventing etc. prohibitions), for “regulations 11 to 18A” substitute “regulations 11 to 18B”.

Exceptions relating to investments in relation to Russia

6. After regulation 60 (exceptions relating to investments in relation to non-government controlled Ukrainian territory) insert—

“Exceptions relating to investments in relation to Russia

60ZZA.—(1) The prohibitions in regulation 18B (investments in relation to Russia) are not contravened by any act done by a person (“P”) in satisfaction of an obligation of P arising under a contract concluded before the coming into force of the Amendment No.12 Regulations, or an ancillary contract necessary for the satisfaction of such a contract, provided that P has notified the Treasury no later than the day five working days before the day on which the act is carried out.

(2) The prohibitions in regulation 18B are not contravened by a person dealing, directly or indirectly, with—

(a) a transferable security where such dealing is prohibited by regulation 16;

(b) a relevant security issued by a person connected with Russia; or

(c) a relevant security issued by a relevant entity.

(3) In this regulation—

“dealing with” a relevant security issued by a person connected with Russia or by a relevant entity includes a reference to purchasing or selling the security, providing investment services relating to the security or assisting in the issuance of the security; “relevant entity” shall have the same meaning as it has in regulation 18B (investments in relation to Russia);

“relevant security issued by a person connected with Russia” means a security issued by—

- (a) a person connected with Russia;
- (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);

which—

- (d) is negotiable on the capital market;
- (e) is of any of the following kinds, but excluding instruments of payment—
 - (i) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
 - (ii) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
 - (iii) any other securities giving the right to purchase or sell any security of a kind mentioned in paragraph (i) or (ii); and
- (f) was admitted to trading on a regulated market or multilateral trading facility prior to the coming into force of the Amendment (No. 12) Regulations;

“relevant security issued by a relevant entity” means a security issued by a relevant entity, negotiable on the capital market, of any of the following kinds, but excluding instruments of payment—

- (a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares;
- (b) bonds or other forms of securitised debt, including depositary receipts in respect of such securities;
- (c) any other securities giving the right to purchase or sell any security of a kind mentioned in paragraph (a) or (b).

“the Amendment (No. 12) Regulations” means the Russia (Sanctions) (EU Exit) (Amendment) (No. 12) Regulations 2022;

“transferable security” has the same meaning as it has in regulation 16 (dealing with transferable securities or money-market instruments).”.

Exception for authorised conduct in a relevant country

7. In regulation 62A(1) (exception for authorised conduct in a relevant country), for “and 18A (provision of foreign reserve and asset management services)” substitute “, 18A (provision of foreign reserve and asset management services) and 18B (investments in relation to Russia)”.

Treasury Licences

8. In regulation 64 (Treasury licences)—

- (a) in paragraph (1), for “and 18A (provision of foreign reserve and asset management services)” substitute “, 18A (provision of foreign reserve and asset management services) and 18B (investments in relation to Russia)”;
- (b) in paragraph (1A), for “regulations 11 to 17A” substitute “regulations 11 to 18B”;
- (c) after sub-paragraph (b) of paragraph (2) omit “and”;
- (d) in paragraph 2(c) for “Schedule 5” substitute “Schedule 5, and”;
- (e) after sub-paragraph (c) insert—
 - “(d) in the case of acts which would otherwise be prohibited by regulation 18B (investments in relation to Russia), where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Part 3 of Schedule 5.”.

Finance: powers to request information

9. In regulation 72(5)(c) (finance: powers to request information), in sub-paragraph (c) for “or regulation 18A (provision of foreign reserve and asset management services)” substitute “, 18A (provision of foreign reserve and asset management services) or 18B (investments in relation to Russia)”.

Treasury licences: purposes

10. After Part 2 of Schedule 5 (Treasury licences: purposes) insert—

“PART 3

Investments in relation to Russia

Extraordinary situation

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

Humanitarian assistance activity

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

Medical goods or services

16.—(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

17. 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.

18.—(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.

Safety and soundness of a firm

19. To enable anything to be done by a person, following consultation by that person (or a person acting on their behalf) with the relevant supervising authority or authorities, that is necessary or expedient in order to promote the safety and soundness of a firm which is supervised by the Bank of England, the Prudential Regulation Authority or the Financial Conduct Authority.

Space

20. To enable anything to be done for a United Kingdom person to undertake spaceflight activity.”.

Rehman Chishti
Parliamentary Under-Secretary of State
Foreign, Commonwealth and Development
Office

14th July 2022

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”).

These Regulations add new financial sanctions to Part 3 (Finance) of the 2019 Regulations. The amendments insert restrictions regarding investments (and services directly related to those investments) in respect of land located in Russia, persons connected with Russia, relevant entities, joint ventures, opening a representative office or establishing a branch or subsidiary located in Russia. These Regulations provide for exceptions to, and licensing powers in relation to, these new provisions.

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 [], or from the Foreign, Commonwealth and Development Office, King Charles Street, London, SW1A 2AH.