

THE RUSSIA (SANCTIONS) (EU EXIT) REGULATIONS 2019

REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Act**”) in relation to the Russia (Sanctions) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 of the Act considers that the purposes of the regulations meet one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act;¹ why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to defend the rules-based international order. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. There are three existing EU Russia sanctions regimes¹, which were established in 2014 in response to the Russian state’s illegal annexation of Crimea and Sevastopol from Ukraine in March 2014, and the subsequent sustained campaign of destabilising Ukraine, and undermining Ukrainian sovereignty. In March 2015 EU leaders decided to link the duration of some of the existing sanctions measures to the complete implementation of the Minsk Agreements. This is intended to put pressure on Russia to fulfil its commitments in full under these agreements, including withdrawal of its troops from eastern Ukraine. The purpose of the sanctions imposed by all three regimes is to encourage Russia to end its illegal annexation of Crimea and other actions destabilising Ukraine, undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.
4. The UK played a significant role in the development of the EU sanctions regime, and proposed a large number of the designations imposed under the regime. Bringing these existing EU sanctions into UK law reflects UK policy on Russia and Ukraine. The Russia (Sanctions) (EU Exit) Regulations 2019 (“**the Regulations**”) are intended to substantially deliver the same policy effects as the existing EU sanctions regime.

¹ See Council Decision 2014/145/CFSP of 17 March 2014, Council Decision 2014/386/CFSP of 23 June 2014 and Council Decision 2014/512/CFSP of 31 July 2014.

Purposes and reasons for pursuing the purposes

5. The Regulations impose sanctions on Russia to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. This is in response to the illegal annexation by Russia of Crimea and Sevastopol from Ukraine in 2014, and the subsequent campaign of destabilising Ukraine, and undermining Ukrainian sovereignty, including supporting separatist destabilisation in the Donbas. The Regulations confer a power on the Secretary of State to designate persons where the Secretary of State has reasonable grounds to suspect that that person is an ‘involved person’, and considers that the designation of that person is appropriate, having regard to the purposes stated in regulation 4, and the likely significant effects of the designation on that person. In these Regulations an ‘involved person’ means a person who:
 - a. is or has been involved in destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine,
 - b. is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person who is or has been so involved,
 - c. is acting on behalf of or at the direction of a person who is or has been so involved, or
 - d. is a member of, or associated with, a person who is or has been so involved.
6. The sanctions measures in these Regulations mean that those designated by the Secretary of State may be subject to an asset freeze and travel ban. These regulations also include a variety of other financial, trade and economic restrictions. The purpose of the sanctions regime, as set out in regulation 4 of the Regulations, is to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine.
7. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Act. In particular, carrying out these purposes would fall within paragraph (2)(c) and 2(d), in that it would be in the interests of international peace and security, and furthering a foreign policy objective of the government of the United Kingdom.
8. Sanctions are intended to increase pressure on Russia to achieve the outcome of Russia ceasing actions which are destabilising Ukraine, or undermining Ukrainian sovereignty. There are good reasons for pursuing these purposes, namely that changing borders illegally and by force is geopolitically destabilising. Russia’s intervention in eastern Ukraine and its illegal annexation of Crimea and Sevastopol are a violation of a number of Russia’s international commitments, including under the UN Charter², the OSCE Helsinki Final Act, the Budapest memorandum and the 1997 Russia/Ukraine Treaty of Friendship, Co-operation and Partnership. The UK has therefore been clear that we need to hold Russia to account for its actions in Ukraine, and to encourage a change in Russian behaviour towards Ukraine. The Russia sanctions regime is part of a broader policy of measures including diplomatic measures aimed at ensuring Russia ends its illegal annexation of Crimea and Sevastopol; and withdraws from eastern Ukraine.
9. The UK has played a leading role in maintaining sanctions against Russia since 2014 to effect a change in its Ukraine policy and end its illegal annexation of Crimea. Russia has failed to implement its commitments under the Minsk agreements, including withdrawing its forces from Ukraine. Continuing sanctions through the UK Regulations, in support of existing EU sanctions and therefore alongside our international partners, is vital to put pressure on Russia to change its behaviour and policy toward Ukraine.

² http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/72/190 UN General Assembly Resolution 72/190

Why sanctions are a reasonable course of action

10. The imposition of prohibitions and requirements of the kind imposed by these Regulations are a reasonable course of action for the purpose of encouraging Russia to cease actions destabilising Ukraine, including actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.
11. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. The UK believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate for the purposes they are intending to achieve.
12. The gravity of the situation in Ukraine means that putting sanctions in place is a reasonable measure to take. Russia continues to undermine Ukrainian security, most recently by its actions in the Black Sea. Sanctions will put pressure on Russia to implement the Minsk Agreements fully, end its illegal annexation of Crimea and Sevastopol, withdraw its troops from Ukrainian soil, end its support for the separatists, and enable the restoration of security along the Ukraine-Russia border under effective and credible international monitoring. Sanctions send a clear political signal intended to drive behavioral change by the Russian state as a whole towards Ukraine.
13. There are four principal kinds of prohibition in the Regulations: those relating to an asset freeze/financial sanctions and immigration sanctions on designated persons, those relating to trade sanctions and those relating to wider financial sanctions.

- a. Financial and immigration sanctions on designated persons.

These restrictions consist of an asset freeze (including a restriction on providing funds and economic resources) and a travel ban. These restrictions can only be imposed upon specified individuals and entities who meet the criteria set out in the Regulations, and in paragraph 5 above. This is in order to ensure that the sanctions are clearly targeted at those who are or have been involved in the destabilisation of Ukraine etc., and therefore fulfil the stated purpose of the sanctions. The intention is to apply pressure in order that the Government of Russia changes its behaviour, and to send a strong message that actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine will not be tolerated. Applying these restrictions to individuals involved in this destabilising activity is intended to both directly and indirectly bring about behaviour change in the Government of Russia. The Regulations allow for exceptions to the travel ban and also provides for the financial sanctions to be subject to certain exceptions and a licensing framework. The exceptions and licensing provisions support the reasonableness of imposing these sanctions measures on designated persons, as they mitigate any possible negative or counter-productive impacts.

- b. Trade sanctions.

The Regulations contain restrictions on the trade of military goods and technology (e.g. arms), and dual-use goods and technology (i.e. goods and technology that can be used for both a military and a civil purpose). There are also prohibitions on the provision of services related to those goods and technology and measures that curtail Russian access to certain specified energy-related equipment and services relating to energy projects, in particular oil production and exploration. Defence and energy are major sectors in Russia's economy, therefore sanctions on the defence and energy sectors are likely to exert greatest pressure on the Russian State, and thereby increase the costs to Russia in respect of Russian action in Ukraine.

The Regulations also contain prohibitions on the import of goods from Crimea, the export of goods related to infrastructure to, or for use in, Crimea, and the provision of services related to infrastructure and tourism in Crimea. Continuing these measures will continue to put pressure on the Russian state in respect of its actions in Crimea.

The trade measures also include prohibitions on the trade of dual use goods and technology with named entities which are either directly state owned, or fall under the control of the Russian state (via the framework of the ROSTEC Corporation). Placing trade restrictions on key Russian entities whose activity is engaged in the supply of military equipment and services seeks to put pressure on the Russian State and thereby increase the costs to Russia in respect of Russian action in Ukraine. We judge that it is more appropriate to apply trade measures than financial measures on these entities, given their high level (until 2014) of import dependency on hi-tech components from the West. Continuing these measures will continue to put pressure on the Russian State and thereby increase the costs to Russia in respect of Russian action in Ukraine.

The trade measures in the Regulations are targeted and provide for the trade sanctions to be subject to a licensing framework that will be overseen by the Department for International Trade. The power to grant licences under this regime supports the reasonableness of imposing these sanctions measures, as it will mitigate any unintended negative consequences.

c. Further financial measures

The Regulations contain certain financial measures that relate to named entities. These are prohibitions on dealing with certain transferable securities and money-market instruments issued by these entities and restrictions on providing loans or credit to these entities. These apply to: Russian credit institutions which are more than 50% owned by the Russian state who can and do act under directives from the Kremlin to support all manner of state projects; entities whose activity is predominantly engaged in dealing with military equipment or services which are more than 50% state owned; and entities which are more than 50% state owned and whose revenues originate mainly from the sale or transportation of crude oil or petroleum products. These measures also apply to certain entities that are owned by these bodies or acting for them. The financial restrictions relating to these named entities will restrict access to EU capital markets by these entities. Not having access to EU capital markets will limit their ability to raise capital, and therefore put pressure on the entities, and by extension the Russian state. The effect of these sanctions will be to put pressure on the Russian state and thereby increase the costs to Russia in respect of Russian action in Ukraine.

The Regulations also contain prohibitions on certain investments in Crimea, including the ownership of land, ownership of relevant entities, and the participation in loans to such entities. Continuing these measures will continue to put pressure on the Russian state in respect of its actions in Crimea.

14. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals to change the Russian Government's policy towards Ukraine. Direct lobbying alone has not proved sufficient. The UK is therefore combining sanctions with diplomatic measures, individual visa denials or blocking Russian membership of the G8, cancelling the annual EU-Russia Summit, and reducing access to European Bank for Reconstruction and Development project funding, as well as bilateral lobbying, lobbying through international frameworks, and supporting UN resolutions.
15. The policy intention is that sanctions on Russia will remain in place until the UK Government is assured that Russia has ended its illegal annexation of Crimea and Sevastopol; withdrawn

from eastern Ukraine and is no longer carrying out actions that undermine Ukraine's sovereignty and territorial integrity. Fulfilling the Minsk Agreements would deliver the purpose of the sanctions regime. We will continue to monitor the position on the ground, including via the OSCE Special Monitoring Mission to Ukraine. The UK will continue to coordinate with international partners, including on the future of the sanctions regime.

16. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

Conclusions

17. The purposes of these Regulations are to encourage Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. For the reasons set out in this report, carrying out those purposes meets one of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

The Rt Hon Sir Alan Duncan MP KCMG

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of
the Secretary of State for Foreign and Commonwealth Affairs**
