

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 5) REGULATIONS 2022
REPORT UNDER SECTION 18 OF THE SANCTIONS AND ANTI-MONEY
LAUNDERING ACT 2018 IN RELATION TO CRIMINAL OFFENCES

A: INTRODUCTION

1. This is a report under section 18 of the Sanctions and Anti-Money Laundering Act 2018 ("**the Sanctions Act**") in relation to the Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2022 ("**the Amendment Regulations**").
2. Section 18(2) of the Sanctions Act requires a report to be laid in Parliament where regulations made under section 1 of the Sanctions Act create offences for the purposes of enforcing any prohibitions or requirements imposed by those regulations, or for the purposes of preventing the circumvention of those prohibitions or requirements.
3. In accordance with section 18, this report: sets out the offences created by the Regulations (see Part B); explains why there are good reasons for the relevant prohibitions or requirements in the Regulations to be enforceable by criminal proceedings (Part C); and sets out the maximum terms of imprisonment that apply to those offences and why there are good reasons for those maximum terms (Part D).

B: THE OFFENCES

4. The Amendment Regulations amend the Russia (Sanctions) (EU Exit) Regulations 2019 ("**the 2019 Regulations**").
5. A report under section 18 of the Act was laid before Parliament to accompany the 2019 Regulations on 11 April 2019.
6. The Amendment Regulations amend Part 3 (Finance) of the 2019 Russia Regulations to impose a new financial sanctions measure prohibiting a person from providing financial services to the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, the Ministry of Finance of the Russian Federation, a person owned and controlled directly or indirectly by the aforementioned persons or a person acting on their behalf or at their direction, where the financial services are for the purposes of foreign exchange reserve and asset management as defined in the Amendment Regulations.
7. The Amendment Regulations extend the scope of certain prohibitions in the 2019 Regulations which already have criminal offences attached. Details of each of the offences extended, created or maintained by the Amendment Regulations, the prohibitions and requirements to which those offences relate, and the maximum penalties relating to each offence, are set out in the table in **Annex A** to this report.

8. The offences created or extended by the Amendment Regulations fall into the following categories:
 - a. contravening the principal prohibitions (e.g. breaching a financial or trade restriction) or trying to circumvent those principal prohibitions;
 - b. Knowingly or recklessly providing false information for the purpose of obtaining a licence;
 - c. Breaching the terms of a licence;
 - d. Failing to comply with requirements relating to the providing and recording of information; and
 - e. Disclosing confidential information.

C: REASONS FOR CREATING THE OFFENCES

9. In order to fulfil the stated purpose of the 2019 Regulations (as amended) the prohibitions and requirements created in these Regulations need to be properly enforced.
10. There are several mechanisms through which some of these measures can be enforced without criminal proceedings. These include the imposition of monetary penalties for breaching financial sanctions and the seizure of goods being dealt with in contravention of certain trade sanctions measures.
11. Having the ability to take enforcement action through criminal proceedings, alongside these other enforcement measures, is appropriate for several reasons. The offences act as a deterrent in relation to the commission of serious acts and omissions which would undermine the purpose of the regime. They also allow the UK Government to take a proportionate response where severity of the act or omission warrants it.
12. Importantly, the offences created by the Amendment Regulations or to which the prohibitions amended by the Amendment Regulations relate are consistent with the other offences contained in the 2019 Regulations. Special care has been taken to ensure that offences are consistent with existing offences while not duplicating any offences that already exist.

Breaches of, and circumvention of, the principal financial prohibitions

13. Regulation 18A of the 2019 Regulations (as amended) restricts the provision of financial services for the purpose of foreign exchange reserve and asset management to the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, the Ministry of Finance of the Russian Federation, or a person acting on behalf of or at the direction of the same.
14. Breaches of the financial prohibitions are a serious matter because such actions undermine the purposes of the sanctions regime. In this case, breaches could result in the flow of

funds to those involved in undermining and threatening the territorial integrity, sovereignty and independence of Ukraine, or those benefiting from or supporting the Russian Government. This would reduce the pressure exerted on the Government of Russia to change its behaviour, and enable it to continue activities that the sanctions regime is intended to deter - namely undermining and threatening the territorial integrity, sovereignty and independence of Ukraine.

15. The ability to institute criminal proceedings in relation to these matters serves as an effective deterrent. It also enables the UK government to take a proportionate response which corresponds to the severity of the breach.
16. The ability to institute criminal proceedings sits alongside other enforcement measures relating to financial sanctions. In particular, the Office of Financial Sanctions Implementation (OFSI) has the power to impose civil monetary penalties under Part 8 of the Policing and Crime Act 2017 to enforce breaches of the financial sanctions prohibitions contained in the Regulations¹. Enabling these prohibitions to be enforceable by criminal proceedings alongside these other enforcement measures ensures that a range of enforcement options is available to enforcement bodies, enabling them to take action that is proportionate to the breach in question.
17. The offences created by the Amendment Regulations or to which the prohibitions amended by the Amendment Regulations relate are consistent with, but do not duplicate, existing financial sanctions offences included in the sanctions regulations made under the Act.

Breaches of prohibitions and requirements relating to licensing and information

18. The amendments made by the Amendment Regulations extend the scope of certain prohibitions and requirements relating to licensing and the provision of information to the Treasury.
19. The extension of these offences is consistent with those currently applicable under the existing Russia sanctions regime. The section 18 report which accompanied the 2019 Regulations sets out in detail why there are good reasons for these offences.

D: REASONS FOR MAXIMUM PENALTIES

20. The penalties imposed by the Amendment Regulations, or to which the prohibitions amended by the Amendment Regulations relate, are set out in Annex A. The offences for breaches of the financial prohibitions provided for by the Amendment Regulations are consistent with the penalties already created for breaches of the principal financial prohibitions in the 2019 Regulations. In all cases the penalties are consistent with similar

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708991/Monetary_Penalties_Guidance_web.pdf

offences in other regulations made under the Act. Further detail on the maximum sentences relating to the different categories of offence is set out below.

Breaches of, and circumvention of, the principal financial prohibitions

21. In relation to financial sanctions, the government committed in the White Paper consultation on sanctions² to ensure consistency of offences and penalties for financial sanctions contained across domestic legislation. In accordance with that commitment, the Amendment Regulations provide for penalties consistent with those provided for in the Policing and Crime Act 2017³. The maximum sentence on indictment for financial sanctions was increased by that Act from two years to seven years and there is no good reason for the government to revisit the level of penalties. The government considers the maximum penalty provides an effective deterrent and is proportionate compared to other serious crime penalties.

E: CONCLUSIONS

22. As set out in this report:

- a. There are good reasons for each of the prohibitions and requirements set out in, or extended by the Amendment Regulations to be enforceable by criminal proceedings. The ability to enforce these measures by criminal proceedings is an effective deterrent, it is consistent with existing legislation and, in conjunction with the use of other enforcement measures, it enables the government to take a proportionate response to potentially serious acts and omissions which would undermine the purpose of the sanctions regime. Importantly, the Amendment Regulations do not create criminal offences where it has been judged that there already exists a criminal offence that can effectively enforce the prohibitions or requirements in question.
- b. There are also good reasons for the maximum terms of imprisonment that attach to those offences: the maximum penalties are consistent with penalties for similar offences in other existing legislation; they are an effective deterrent; and they are proportionate to the seriousness of the types of offences to which they relate.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/635101/consultation-uk-future-legal-framework-sanctions-government-response.pdf

³ The maximum terms of imprisonment for indictable offences under Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 and Schedule 7 to the Counter-Terrorism Act 2008 were increased from two years to a maximum of seven years and, for summary offences under those provisions, the maximum terms of imprisonment were increased from three months to 12 months (this being six months for offences committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force).

The Rt. Hon. James Cleverly MP
Minister of State for Europe and North America

Annex A: Table of financial sanctions offences

Type of sanction offences	Specific offence	Relevant prohibition or requirement (or other legislation)	Maximum penalty*
Breach of principal financial sanction	Provision of foreign exchange reserve management services to, or for the benefit of, the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, the Ministry of Finance of the Russian Federation, a person owned or controlled directly or indirectly by the aforementioned, or a person acting on behalf of or at the direction of the same.	Reg. 18A	<p>Liable on summary conviction - to imprisonment for a term not exceeding 12 months in England and Wales (or, in relation to offences committed before paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (Increase in magistrates' court's power to impose imprisonment) comes into force, 6 months) and 12 months in Scotland, and 6 months in Northern Ireland or a fine, which in Scotland or Northern Ireland may not exceed the statutory maximum (or both);</p> <p>Liable on conviction on indictment - to imprisonment for a term not exceeding 7 years or a fine (or both).</p>
Circumvention etc. of prohibitions	Circumventing directly or indirectly the prohibitions of regs. 18A or enabling the contravention of prohibitions	Reg. 19	“ “
Breach of requirements under licences	1. Knowingly or recklessly providing false information or providing a document that is not what it purports to be for the purpose of obtaining a licence	1. Reg. 67 2. Reg. 67	" " "

	2. Failing to comply with the conditions of a licence		
Breach of reporting obligations	<p>1. Failure to inform the Treasury about knowledge or reasonable cause to suspect that a person has committed an offence under Part 3 of the Regulations or reg. 67 (finance: licensing offences)</p> <p>2. Failure to provide the Treasury with information on which the knowledge or suspicion is based or information by which the person can be identified</p>	<p>1.Reg 70</p> <p>2. Reg 70</p>	<p>Liable on summary conviction -</p> <p>to imprisonment for a term not exceeding 6 months in England and Wales, 6 months in Scotland, and 6 months in Northern Ireland, or a fine, which in Scotland or Northern Ireland may not exceed level 5 on the standard scale, (or both).</p>
Failure to comply with requests for information	<p>3. Failure to provide information in the time and manner requested under reg. 72</p> <p>4. Knowingly and recklessly providing false information in respect of information requested under reg. 72</p>	<p>1. reg. 74</p> <p>2. reg. 74</p> <p>3. reg. 74</p> <p>4. reg. 74</p>	<p>" " "</p>

	5. Evasion of requests made under reg. 72 or reg. 73		
	6. Obstruction of Treasury requests for information made under reg. 72 or reg. 73		

* Penalties set out in Reg 80 of the 2019 Russia Regulations, as amended by these Amendment Regulations.