

EXPLANATORY MEMORANDUM TO
THE UKRAINE (EUROPEAN UNION FINANCIAL SANCTIONS) (NO. 3)
(AMENDMENT NO.2) REGULATIONS 2014

2014 No. 3230

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 These Regulations amend the Ukraine (European Union Financial Sanctions) (No.3) Regulations 2014 (S.I. 2014/2054) (“the 2014 Regulations”). The 2014 Regulations make provision relating to the enforcement of Council Regulation (EU) No. 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ L 229, 31.7.2014, p.1) (“the First Council Regulation”). These Regulations also amend the 2014 Regulation to ensure that it more closely reflects the terms of the First Council Regulation.

2.2 The First Council Regulation has previously been amended by Council Regulation (EU) No. 960/2014 dated 8 September 2014 (OJ L 271, 12.9.2014, p.3) (“the Second Council Regulation”). The 2014 Regulations were amended by The Ukraine (European Union Financial Sanctions) (No.3) (Amendment) Regulations 2014 to reflect the measures included in the Second Council Regulation.

2.3 The First Council Regulation and the Second Council Regulation have now been amended by Council Regulation (EU) No. 1290/2014 of 4 December 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014 (OJ L 349, 5.12.2014, p.20) (“the Amending Council Regulation”). The Amending Council Regulation includes new measures which will extend the circumstances in which the prohibition on making or being part of any arrangement to make loans or credits with certain persons, entities or bodies in the Russian financial, defence and energy sectors will not apply.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 These Regulations have been laid before Parliament less than 21 days before they come into force. The Amending Council Regulation came into force on 6th December 2014, the day after its publication in the Official Journal. Penalties for breach of the financial sanctions measures contained in the First Council Regulation are contained in

the 2014 Regulations. As the Amending Council Regulation amends existing financial sanctions measures and is already in force, it is important to ensure that the provisions in the 2014 Regulations reflect the changed position more quickly than following the 21 day rule would allow.

3.2 The Treasury has issued a notice of the requirements in the 2014 Regulations, and the Amending Council Regulation. The Treasury also provides a dedicated email, address and telephone number to deal with queries from the financial sector and other affected persons.

4. Legislative Context

4.1 These Regulations amend the 2014 Regulations. They reflect amendments made by the Amending Council Regulation to the First Council Regulation.

4.2 No Explanatory Memorandum on the amending Regulation has yet been submitted for Parliamentary scrutiny by the Foreign and Commonwealth Office because of the speed at which the documents have been negotiated and come in to force. The Minister for Europe is writing to the Parliamentary Committees to update them on events. We understand that a memorandum will be submitted shortly.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom and, outside the United Kingdom, to any UK national and any body incorporated in the UK.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 On 4th December 2014, the Council of the European Union adopted the Amending Council Regulation, which amends and extends the prohibitions in the First Council Regulation. These Regulations amend the 2014 Regulations to reflect the changes made to the First Council Regulation.

7.2 The First Council Regulation had direct effect, and required Member States to put in place effective, proportionate and dissuasive penalties for infringements of the Council Regulation. The Amending Council Regulation also has direct effect and its provisions enter into force on the date of its publication in the Official Journal.

7.3 The amendments to the 2014 Regulations:

- clarify the existing prohibition on dealing with transferable securities and money market instruments by exempting legal persons, entities or bodies active in the space or nuclear energy sectors, thus amending the 2014 Regulations to more closely reflect the First Council Regulation;
- clarify the terms of the prohibition on being part of any arrangement to make new loans or credit with a maturity exceeding 30 days by amending the 2014 regulations to more closely reflect the First Council Regulation;
- amend the exemption from the prohibition on being part of any arrangement to make new loans or credit with a maturity exceeding 30 days where that loan or credit has a specific or documented objective to provide financing for trade and non-financial services.
- introduce a new exemption to the prohibition on being part of any arrangement to make new loans or credit with a maturity exceeding 30 days in circumstances where a new drawdown or disbursement is due on a loan or credit arrangement which was agreed before 15th September 2014 and certain other conditions are met.

7.4 These amendments to the 2014 Regulations only apply to transactions which will occur after these Regulations come into force. Transactions which occurred before these Regulations come into force were governed by the 2014 Regulations as they were at the time of the transactions.

- Consolidation

7.5 There are no plans to consolidate relevant legislation.

8. Consultation outcome

No consultation has been carried out in relation to these Regulations.

9. Guidance

Guidance on the asset freezing and other financial sanctions measures in relation to the Ukraine is available on the Treasury's website. Financial Sanctions, within the Treasury, operate a free subscription email service alerting subscribers to changes to the asset freezing regime, and to other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing and financial sanctions regimes. A notice explaining the Amending Council Regulation is available on the Treasury website and was emailed to subscribers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, because these Regulations do not themselves impose requirements, but only reflect changes to existing prohibitions made by the directly effective Amending Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the Amending Council Regulation rather than these Regulations which only amend enforcement powers.

11. Regulating small business

The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the Treasury works with the financial sector on the requirements for complying with the sanctions measures set out in the First Council Regulation and the Amending Regulation. The Treasury provides detailed guidance to assist business in complying with these measures.

12. Monitoring & review

The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by the First Council Regulation if it is amended further or repealed.

13. Contact

Financial Sanctions at the Treasury Tel: 020 7270 5454 or email: financialsanctions@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.