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## STATUTORY INSTRUMENTS

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# 2019 No. 438

## The South Sudan (Sanctions) (EU Exit) Regulations 2019

### PART 7

#### Information and records

##### “Relevant firm”

- 40.**—(1) The following are relevant firms for the purposes of regulation 39—
- (a) a person that has permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activity);
  - (b) an undertaking that 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;
  - (c) a firm or sole practitioner that is—
    - (i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (statutory auditors)<sup>M1</sup>, or
    - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)<sup>M2</sup>;
  - (d) a firm or sole practitioner that provides to other persons, by way of business—
    - (i) accountancy services,
    - (ii) legal or notarial services,
    - (iii) advice about tax affairs, or
    - (iv) trust or company services within the meaning of paragraph (2);
  - (e) a firm or sole practitioner that carries out, or whose employees carry out, estate agency work;
  - (f) the holder of a casino operating licence within the meaning given by section 65(2)(a) of the Gambling Act 2005 (nature of a licence)<sup>M3</sup>;
  - (g) a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—
    - (i) articles made from gold, silver, platinum or palladium, or
    - (ii) precious stones or pearls.
  - [<sup>F1</sup>(h) a cryptoasset exchange provider;
    - (i) a custodian wallet provider.]
- (2) In paragraph (1) “trust or company services” means any of the following services—
- (a) forming companies or other legal persons;

- (b) acting, or arranging for another person to act—
  - (i) as a director or secretary of a company,
  - (ii) as a partner of a partnership, or
  - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) acting, or arranging for another person to act, as—
  - (i) a trustee of an express trust or similar legal arrangement, or
  - (ii) a nominee shareholder for a person.

(3) In paragraph (1)—

“estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979<sup>M4</sup>, but as if references in that section to disposing of or acquiring an interest in land included (despite anything in section 2 of that Act) references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

“firm” means any entity that, whether or not a legal person, is not an individual, and includes a body corporate and a partnership or other unincorporated body.

[<sup>F2</sup>(3A) In paragraph (1), a “cryptoasset exchange provider” means a firm or sole practitioner that by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—

- (a) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets,
- (b) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another, or
- (c) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets.

(3B) In paragraph (1), a “custodian wallet provider” means a firm or sole practitioner that by way of business provides services to safeguard, or to safeguard and administer—

- (a) cryptoassets on behalf of its customers, or
- (b) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.

(3C) For the purposes of this regulation—

- (a) “cryptoasset” means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically;
- (b) “money” means—
  - (i) money in sterling,
  - (ii) money in any other currency, or
  - (iii) money in any other medium of exchange,
 but does not include a cryptoasset; and
- (c) in sub-paragraphs (a) to (c) of paragraph (3A), “cryptoasset” includes a right to, or interest in, the cryptoasset.]

(4) Paragraph (1)(a) and (b) is to be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.

(5) For the purposes of regulation 39(1), information or another matter comes to a relevant firm “in the course of carrying on its business” if the information or other matter comes to the firm—

- (a) in the case of a relevant firm within paragraph (1)(a), in the course of carrying on an activity in respect of which the permission mentioned in that provision is required;
- (b) in the case of a relevant firm within paragraph (1)(c)(i), in the course of carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of statutory auditor) <sup>M5</sup>;
- (c) in the case of a relevant firm within paragraph (1)(c)(ii), in the course of carrying out an audit required by the Local Audit and Accountability Act 2014;
- (d) in the case of a relevant firm within paragraph (1)(f), in the course of carrying on an activity in respect of which the licence mentioned in that provision is required;
- (e) in the case of a relevant firm within any other provision of paragraph (1), in the course of carrying on an activity mentioned in that provision.

#### Textual Amendments

- F1** Reg. 40(1)(h)(i) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(c), **4(2)(a)**
- F2** Reg. 40(3A)-(3C) inserted (30.8.2022) by The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/819), regs. 1(3)(c), **4(2)(b)**

#### Commencement Information

- I1** Reg. 40 not in force at made date, see **reg. 1(2)**
- I2** Reg. 40 in force at 31.12.2020 by S.I. 2019/627, **reg. 6(2)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M1** 2006 c.46.
- M2** 2014 c.2.
- M3** 2005 c.19.
- M4** 1979 c.38. Section 1 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), **Schedule 1**, paragraph 40; the Planning (Consequential Provisions) Act 1990 (c.11), **Schedule 2**, paragraph 42; the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), **Schedule 2**, paragraph 28; the Enterprise and Regulatory Reform Act 2013 (c.24), **section 70**; S.I. 1991/2684; S.I. 2000/121 and S.I. 2001/1283.
- M5** Section 1210 was amended by S.I. 2008/565; S.I. 2008/567; S.I. 2008/1950; S.I. 2011/99; S.I. 2012/1809; S.I. 2013/3115; S.I. 2017/516 and S.I. 2017/1164.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The South Sudan (Sanctions) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Pt. 3A inserted by [S.I. 2024/644 reg. 4\(4\)](#)
- reg. 5(1)(aa) inserted by [S.I. 2024/644 reg. 4\(3\)\(b\)](#)
- reg. 33A inserted by [S.I. 2024/644 reg. 4\(5\)](#)
- reg. 36A inserted by [S.I. 2024/644 reg. 4\(7\)](#)
- reg. 54(3A)-(3D) inserted by [S.I. 2024/644 reg. 4\(10\)](#)