

EXPLANATORY MEMORANDUM TO
THE SANCTIONS (EU EXIT) (MISCELLANEOUS AMENDMENTS) (NO. 2)
REGULATIONS 2024

2024 No. 1157

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth & Development Office (“FCDO”) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

- 2.1 Stephen Doughty MP, Minister of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Abigail Culank, Deputy Director for Sanctions at the FCDO, can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 The Sanctions Directorate at the FCDO, Telephone: 0207 008 8553 or email: fcdo.correspondence@fcdo.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

- 4.1 The measures contained within the instrument will collectively improve the ability of HM Treasury’s Office of Financial Sanctions Implementation (“OFSI”) to implement and enforce financial sanctions. The amendments will improve OFSI’s intelligence on industry’s compliance with UK financial sanctions, strengthen OFSI’s enforcement powers, enable OFSI to deal with licensing applications more efficiently, and will clarify financial sanctions legislation where there is existing uncertainty.
- 4.2 This instrument is made under the Sanctions and Anti-Money Laundering 2018 (c. 13) (“the Sanctions Act”) to make amendments to:
 - (a) The Venezuela (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/135)
 - (b) The Democratic People’s Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/411)
 - (c) The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/433)
 - (d) The South Sudan (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/438)
 - (e) The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (S.I. 2019/461)
 - (f) The ISIL (Da’esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/466)

- (g) The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/554)
- (h) The Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/573)
- (i) The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/577)
- (j) The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/600)
- (k) The Zimbabwe (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/604)
- (l) The Chemical Weapons (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/618)
- (m) The Syria (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/792)
- (n) The Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855)
- (o) The Guinea (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/1145)
- (p) The Cyber (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/597)
- (q) The Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/608)
- (r) The Nicaragua (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/610)
- (s) The Lebanon (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/612)
- (t) The Central African Republic (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/616)
- (u) The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020 (S.I. 2020/617)
- (v) The Somalia (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/642)
- (w) The Global Human Rights Sanctions Regulations 2020 (S.I. 2020/680)
- (x) The Mali (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/705)
- (y) The Iraq (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/707)
- (z) The Sudan (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/753)
- (aa) The Afghanistan (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/948)
- (bb) The Yemen (Sanctions) (EU Exit) (No. 2) Regulations 2020 (S.I. 2020/1278)
- (cc) The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1474)
- (dd) The Libya (Sanctions) (EU Exit) Regulations 2020 (S.I. 2020/1665)
- (ee) The Global Anti-Corruption Sanctions Regulations 2021 (S.I. 2021/488)
- (ff) The Myanmar (Sanctions) Regulations 2021 (S.I. 2021/496)
- (gg) The Haiti (Sanctions) Regulations 2022 (S.I. 2022/1281)
- (hh) The Iran (Sanctions) Regulations 2023 (S.I. 2023/1314)
- (ii) The Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 (S.I. 2024/948)

Where does the legislation extend to, and apply?

- 4.3 The extent of this instrument is the whole of the United Kingdom (“UK”).
- 4.4 Subject to paragraph 4.5, the territorial application of this instrument is also the same as the territorial application of the Amended Regulations, that is, it applies to the whole of the UK.
- 4.5 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and also applies to conduct by any person in the territorial

sea adjacent to the UK. “UK person” is defined in section 21(2) of the Sanctions Act as a UK national or a body incorporated or consolidated under the law of any part of the UK.

5. Policy Context

What is being done and why?

- 5.1 The Government is committed to strengthening the implementation of UK sanctions. Since its creation in 2016, it is the role of OFSI to ensure that financial sanctions (and the trade sanctions that OFSI is responsible for) are properly understood, implemented and enforced in the UK.
- 5.2 Following an internal review of OFSI’s procedures, prompted by the significant increase in UK financial sanctions over recent years, and feedback from industry engagement, OFSI has identified a package of measures which will improve its ability to fulfil its sanctions enforcement role. Taken together, these changes will ensure OFSI has improved intelligence on industry’s compliance with sanctions legislation, strengthen OFSI’s enforcement powers, enable OFSI to conduct its licensing responsibilities more efficiently and clarify existing legislation in several areas. This instrument also addresses feedback on previous sanctions legislation from the Joint Committee on Statutory Instruments.
- 5.3 As such this instrument amends several provisions in the Amended Regulations, as outlined below.

Reporting obligations: Definition of ‘relevant firms’

- 5.4 This measure broadens the scope of financial sanctions reporting obligations by expanding the definition of relevant firms to cover additional sectors, including high value dealers, art market participants, insolvency practitioners and letting agencies. Businesses in these sectors can be utilised by designated persons (“DPs”) subject to financial sanctions, and there have been suspected breaches of sanctions within some of these sectors that have not been proactively reported to OFSI.
- 5.5 Extending reporting obligations to these sectors will facilitate OFSI’s aim of encouraging better sanctions compliance, as well as improving OFSI’s understanding of how financial sanctions are being implemented in the impacted sectors, raising impacted businesses’ awareness of their sanctions obligations, and assisting OFSI in identifying potential circumvention gaps and financial sanctions breaches.
- 5.6 This amendment is being made to all sanctions regimes which contain financial measures.

Reporting obligations: Requirement on relevant firms and involved persons to report suspected breaches of prohibitions and failures to comply with obligations in sanctions regulations

- 5.7 Relevant firms are currently required to report to OFSI where they know or have reasonable cause to suspect that a person has committed an offence under financial sanctions legislation. Separately, under the Russia (Sanctions) (EU Exit) Regulations 2019 (“the Russia Regulations”), there is a further reporting requirement on both relevant firms and involved persons – as defined in regulation 70(7) – to inform OFSI as soon as practicable if they know or have reasonable cause to suspect that a person has committed an offence under Part 5, Chapter 4IA (maritime transportation of certain oil and oil products) of those Regulations.

- 5.8 This measure changes the requirements on relevant firms and involved persons, broadening this to a requirement to report suspected breaches of a prohibition or failures to comply with an obligation, instead of only reporting suspected offences.
- 5.9 As a result, a relevant firm, or involved person, does not need to consider whether a person's conduct may amount to a criminal offence, but simply whether they know or have reasonable cause to suspect the conduct was contrary to a prohibition or requirement under the relevant sanctions legislation. This would align the requirement with OFSI's broader civil enforcement powers, since Civil Monetary Penalties ("CMPs") can be imposed for breaches of the regulations.
- 5.10 This amendment is being made to all sanctions regimes which contain financial measures.

Reporting obligations: OFSI's annual frozen asset review

- 5.11 The instrument introduces a requirement for all UK persons that hold funds or economic resources owned, held, or controlled by a DP to provide an annual report to OFSI with the details of these assets. The report must include the nature and amount, or quantity of assets held (as at 30 September) and be sent to OFSI (no later than 30 November) each year. This will provide OFSI with information regarding DPs' assets held on that date as a snapshot in time each year. Failure to report, without reasonable excuse, will be an offence.
- 5.12 OFSI currently undertakes an annual frozen asset review to capture this information using its information request powers. The review's purpose is to monitor the impact of UK sanctions and to improve OFSI's understanding of how sanctions are implemented in the UK. By codifying the annual frozen asset review as a proactive reporting requirement in legislation, this measure will provide certainty and clarity to the persons that must comply, while also providing a robust basis for OFSI to take enforcement action where persons fail to report. Historically, OFSI has faced challenges with persons missing the information request or failing to report on time.
- 5.13 This amendment is being made to all sanctions regimes which contain financial measures.

Notification requirements relating to specific licences

- 5.14 The instrument amends the notification requirements on HM Treasury, the Department for Business and Trade (DBT), the Department for Transport (DFT), and the Insolvency Service when they issue, vary, suspend or revoke a specific sanctions licence. The measure will amend these notification requirements so that licence issuers will only have to notify the person who applied for the specific sanctions licence and not every person authorised to act under the licence. Given the significant recent increase in licences issued, maintaining the previous approach to licence notification requirements would be disproportionately burdensome for certain licence issuers.
- 5.15 This amendment is being made to all sanctions regimes that contain financial measures and also the Lebanon (Sanctions) (EU Exit) Regulations 2020.

Amendments to licensing derogations and exceptions

- 5.16 The instrument makes three legislative changes to the licensing and exceptions provisions in sanctions regulations:
- (a) It amends the existing pre-judicial decisions licensing purpose, in particular to:
- (i) allow payments to and from DPs that implement court decisions made pre- or post-designation; and
 - (ii) require funds and economic resources used to satisfy a

judicial decision made pre- or post-designation to a DP to be credited to a frozen bank account or subject to the relevant asset freeze provisions. OFSI often receives licence applications in relation to such payments despite there often being no dedicated licensing purpose. This amendment will therefore allow OFSI to consider licence applications in relation to a wider range of judicial decisions.

- (b) It creates a new insolvency licensing purpose. This will allow OFSI to license various payments and other activity made in relation to insolvency, restructuring and related proceedings, provided that any payments made directly or indirectly to a DP are credited to a frozen bank account. Insolvency is an area where sanctions may create adverse consequences for non-designated persons. For example, a non-designated person may be impacted where it is a creditor of an insolvent company, and the insolvency proceedings cannot be progressed as a fellow creditor is a designated person. Existing purposes are not always sufficient to license activity which relates to insolvency proceedings therefore this new purpose provides a dedicated basis for such activity.
- (c) It creates a new required payments exception. This exception will allow for various payments to be made from, or for the benefit of, DPs to Companies House, His Majesty's Revenue & Customs, the Welsh Revenue Authority, Revenue Scotland, the Financial Conduct Authority, the Secretary of State, the Welsh Ministers, the Department of Finance in Northern Ireland, and local authorities in England, Wales and Scotland without the need for a licence. This will ensure timely payments are made to regulatory authorities and will reduce operational burdens on OFSI.
OFSI currently has general licences in place for some of these payments, and the intention is for these to be withdrawn once the exception comes into force. The exception will allow DPs to make direct payments to these public bodies, and third persons to make these payments on a DP's behalf. Where a third person makes a payment on a DP's behalf, the exception will further allow for this person to receive a reimbursement payment from the DP. Persons who use the exception will be obliged to make a report to OFSI.

5.17 These amendments are being made to all autonomous regimes and the autonomous parts of mixed regimes.

New civil monetary penalty powers for Russia land prohibitions and changes to the DPRK land prohibitions

- 5.18 The instrument will provide OFSI with new powers to impose CMPs for violations of land prohibitions under the Russia Regulations. As the land prohibitions rely on trade sanctions powers under the Sanctions Act, OFSI lacks a firm legal basis to rely on CMP powers under the Policing and Crime Act 2017 (c. 3) ("the 2017 Act") for breaches of the land prohibitions. The instrument also amends the Russia Regulations to ensure that information can be shared in relation to all OFSI's existing CMP functions under those regulations (including the new land enforcement CMP powers). This measure does not amend the criminal offences that apply to these prohibitions. The Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 are also being amended to ensure OFSI is responsible for implementing the prohibitions.
- 5.19 The instrument also moves the existing land-related prohibitions in the DPRK (Sanctions) (EU Exit) Regulations 2019 from the financial services part of those Regulations to the trade part. This is to make it clear that, following the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024 coming into

force, these prohibitions will be implemented by DBT. The amendment also ensures that HMRC has criminal enforcement functions in respect of the prohibitions.

Amending the definition of designated person in Treasury licences schedules and exceptions provisions of sanctions regulations

- 5.20 The current definition of DPs in the Treasury licences schedules of sanctions regulations expressly refers to DPs, but not to entities owned or controlled by DPs. This measure amends the definition to expressly allow OFSI to issue licences in cases which do not involve named DPs but do involve entities owned or controlled by named DPs.
- 5.21 Sanctions regulations also feature exceptions provisions, which set out any exceptions from asset freeze prohibitions where activity is permitted without the need for a specific licence. Amending the corresponding asset freeze exception provisions ensures that the definition of DP used to issue licences, or to apply any exceptions, is consistent across the legislation.
- 5.22 This amendment is being made to all sanctions regimes which contain financial measures.

Amending certain asset freeze prohibitions to explicitly apply to owned and controlled entities of named DPs

- 5.23 This measure ensures that the prohibitions on the making available of funds, economic resources and/or financial services to any person for the benefit of a DP, apply to legal persons owned or controlled by DPs as well as the named DPs themselves. This change will prohibit funds, economic resources and, in the counter-terrorism context, financial services being made available to persons for the benefit of an entity owned or controlled by a DP. This will make clear that entities owned or controlled by DPs cannot benefit from funds, economic resources and/or financial services being made available to another person.
- 5.24 This amendment is being made to all sanctions regimes which contain financial measures.

Nominee shareholders

- 5.25 This measure amends Regulations 18C and 71 of the Russia Regulations to clarify that acting as a nominee shareholder when that involves the use of a trust or similar arrangement, should be considered a prohibited trust service.
- 5.26 This amendment is being made only to the Russia Regulations.

Disclosure to the Treasury

- 5.27 This measure amends the ‘Disclosure to the Treasury’ provisions in most financial sanctions regulations to clarify the scope of HM Treasury’s functions in connection with sanctions. It clarifies what is meant by “sanctions” for the purposes of that regulation to ensure that the definition will be construed in the way intended.
- 5.28 Sanctions regulations laid since Summer 2022 – specifically the Haiti (Sanctions) Regulations 2022 and the Iran (Sanctions) Regulations 2023 – already contained this new wording. This measure therefore updates the other sanctions regimes containing financial measures.

Russia Regulations: Asset reporting requirements in relation to regulation 18A

- 5.29 This measure modifies the requirement on relevant firms to disclose to the Treasury any funds or economic resources held by them, for the entities to whom the provision

of certain financial services is prohibited by Regulation 18A of the Russia Regulations. Those entities are the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, the Russian Ministry of Finance and associated entities.

- 5.30 The requirement currently has two parts: first, an initial requirement for this information to be reported ‘as soon as practicable’; and second, an annual reporting requirement. The initial report is narrower in scope than the annual report, as the initial report mandates that information should only be reported to OFSI where this information came to the relevant firm through its course of business. The annual report does not have such a requirement. This instrument corrects this misalignment; by amending the annual reporting requirement so it is in line with the initial reporting requirement.
- 5.31 This amendment is being made to the Russia Regulations only.

What was the previous policy, how is this different?

Reporting obligations: Definition of ‘relevant firms’

- 5.32 The list of relevant firms subject to financial sanctions reporting requirements did not include art market participants, high value dealers, letting agency businesses, and insolvency practitioners. However, businesses in these sectors can be utilised by persons subject to financial sanctions and there have been breaches of sanctions within some of these sectors that have not been proactively reported to OFSI. The amendment therefore expands the scope of ‘relevant firms’ to include these businesses. This will encourage better sanctions compliance in these sectors and also improve OFSI’s understanding of how sanctions are being implemented.

Reporting obligations: Requirement on relevant firms and involved persons to report suspected breaches of prohibitions and failures to comply with obligations in sanctions regulations

- 5.33 Relevant firms are currently required to report to OFSI where they know or have reasonable cause to suspect that a person has committed an offence under financial sanctions legislation. Both relevant firms and involved persons are required to report to OFSI where they know or have reasonable cause to suspect that a person has committed an offence under Part 5, Chapter 4IA (maritime transportation of certain oil and oil products) of the Russia Regulations.
- 5.34 Previously, relevant firms and involved persons were required to know or have reasonable cause to suspect that a person’s conduct amounted to a criminal offence. However, now relevant firms and involved persons will only need to determine whether they know or have reasonable cause to suspect a person’s conduct was contrary to a prohibition or requirement under the relevant sanctions regulation.

Reporting obligations: OFSI’s annual frozen asset review

- 5.35 Previously, OFSI sent out an annual request for information to persons holding or controlling funds or economic resources of designated persons, but there was no explicit legal requirement in financial sanctions regulations for relevant firms to proactively report annually. The instrument changes this, by making the annual provision of this information a legal requirement with specified reporting deadlines set out in legislation.

Notification requirements relating to specific licences

- 5.36 OFSI, DBT, DFT and the Insolvency Service are currently required to notify a person authorised by a specific licence when issuing, revoking, varying, or suspending such a

licence. Practice has generally been to notify the person who applied for the licence. The amendment reflects that policy so that licensing authorities are only required to notify the licence applicant when issuing, varying, suspending or revoking the specific licence applied for by that applicant.

Amendments to licensing derogations and exceptions

- 5.37 These amendments are only being made to autonomous regimes and to autonomous parts of mixed regimes. The licensing purposes and exceptions that apply in UN regimes, and that apply to UN DPs in mixed regimes, remain unchanged.
- 5.38 The pre-existing judicial decisions licensing purpose previously only allowed for the use of a DP's frozen funds or economic resources to satisfy a judicial, administrative, or arbitral decision or lien, where certain conditions were met. These were that the decision or lien was made before the person was designated, did not directly or indirectly benefit a DP, was enforceable in the UK, and the funds or economic resources were the subject of the decision or lien. For autonomous regimes and the autonomous parts of mixed regimes, the instrument extends the scope of the licensing purpose to cover judicial decisions made after the designation of a person and also to judicial decisions, both pre- and post-designation, where funds or economic resources are awarded to a DP.
- 5.39 For autonomous regimes and the autonomous parts of mixed regimes, the instrument creates a new licensing purpose that will specifically enable activity related to insolvency to be licensed, where OFSI considers this to be appropriate. Previously there was no specific licensing purpose designed to facilitate insolvencies. Where possible, OFSI had been using general licences and other specific licensing purposes, such as basic needs and extraordinary situations, to manage insolvency cases where it assessed activity should be licensed.
- 5.40 Previously, payments required to be made from DPs to the bodies listed in the new required payments exception required a licence. Any specific licences granted were typically issued using the 'basic needs' purpose. OFSI also issued four relevant general licences, one for payments to Companies House¹, one for payments to local authorities², one for payments to the FCA³, and one for payments to revenue authorities including HMRC⁴. For autonomous regimes and the autonomous parts of mixed regimes, the instrument creates an exception to allow for various payments from or on behalf of a DP to local authorities without the need for specific or general licences.

New civil monetary penalty powers for Russia land prohibitions and changes to the DPRK land prohibitions

- 5.41 OFSI was previously responsible for the implementation of the land-related prohibitions contained within both the Russia and DPRK sanctions regimes.

¹ INT/2023/3626884 - https://assets.publishing.service.gov.uk/media/660c1f0567958c001f365a86/General_Licence_INT20233626884_Payments_to_Companies_House_2.4.24.pdf

² INT/2023/3781228 - https://assets.publishing.service.gov.uk/media/66b0c5b049b9c0597fdb0ab0/General_Licence_INT3781228_Payments_to_Local_Authorities_05082024.pdf

³ INT/2024/483667 - https://assets.publishing.service.gov.uk/media/66742d7af92bc4be25da7edd/Payments_to_the_FCA_GL.pdf

⁴ INT/2024/4881897 - https://assets.publishing.service.gov.uk/media/66829f145b0d63b556a4b521/Payments_to_Revenue_Authorities_GL_INT.2024.4881897.pdf

- 5.42 Following the creation of the Office of Trade Sanctions Implementation (OTSI) within DBT, OTSI will be responsible for the land-related prohibitions in the DPRK regime. DBT will be able to use its enforcement powers, introduced through the Trade, Aircraft and Shipping Sanctions (Civil Enforcement) Regulations 2024, to take action against any breaches of these prohibitions. This instrument removes the relevant DPRK provision (regulation 27) and reinstates it in Part 6, Chapter 2 as a new regulation 57A. This is to make it clear that these prohibitions are trade sanctions and will be implemented by DBT (with HMRC to have criminal enforcement functions).
- 5.43 OFSI will retain its implementation function for the land-related prohibitions in the Russia Regulations – contained within regulation 18(2)(a) and regulation 18B(2)(a-b). This is because these prohibitions are bound up in wider financial sanctions in respect of investment.
- 5.44 Currently, as these prohibitions rely on trade powers under the Sanctions Act, OFSI does not have a firm legal basis to impose CMPs under the 2017 Act for violations of these prohibitions. This instrument remedies this by providing OFSI with new CMP powers to enforce these land-related prohibitions.

Amending the definition of DPs in Treasury licences schedules and exceptions provisions of sanctions regulations

- 5.45 Previously, the definition of a DP in the Treasury licences schedule of regime-specific secondary legislation was drafted only by reference to DPs, without explicit reference to entities owned or controlled by DPs whose funds and economic resources are similarly frozen. This was mirrored in the exceptions provisions, which sets out any exceptions from asset freeze prohibitions where activity is permitted without the need for a specific licence.
- 5.46 While OFSI already issues licences involving entities owned or controlled by DPs, for the avoidance of any doubt the amendment clarifies that the legal definition of DP includes entities owned or controlled by DPs. There is no change to policy or practice. Likewise, amending the corresponding asset freeze exception provisions ensures that the definition of DP used to issue licences, or to allow any exceptions, provides consistency across the legislation.

Amending certain asset freeze prohibitions to apply expressly to owned and controlled entities of named DPs

- 5.47 Previously, the legislation did not expressly deal with whether the prohibitions on the making available of funds and/or economic resources to any person (i.e. a third party) for the benefit of a DP applied to legal persons owned or controlled by DPs as well as named DPs. This amendment clarifies that the prohibitions apply to legal persons owned and controlled by DPs.

Nominee shareholders

- 5.48 Previously, the legislation was not as clear as it could be on whether acting as a nominee shareholder would be considered as providing a prohibited trust service under the trust services sanctions. This ambiguity arose due to the potential overlap between regulation 18C(7) and regulation 71 of the Russia Regulations, where the definition of company services for the purpose of reporting requirements included a reference to acting or arranging for another person to act as a nominee shareholder. This could mistakenly be taken to mean that acting as a nominee shareholder, even when that involved a trust or similar arrangement, was not a trust service but a company service. This was not the policy intention, and the amendment clarifies that acting as a nominee shareholder when that involves a trust or similar arrangement is

within the scope of the trust services sanctions, removing any ambiguity that existed previously.

Disclosure to the Treasury

- 5.49 Before the changes made to this instrument, the ‘Disclosure to the Treasury’ provisions permitted public authorities to share information with the Treasury to enable or assist the Treasury “to discharge any of its functions in connection with sanctions”. “Sanctions” is not clearly defined for the purposes of these provisions.
- 5.50 This instrument clarifies the scope of the Treasury’s functions in connection with sanctions.

Russia Regulations: Asset reporting requirements in relation to regulation 18A

- 5.51 Regulations 70(1ZA) and (1ZB) of the Russia Regulations require relevant firms to report to OFSI the value, nature, and holders of UK assets belonging to certain prohibited persons and entities. The initial reporting requirement (1ZA) is narrower than the annual reporting requirement (1ZB), due to a drafting discrepancy. The annual report (1ZB) is triggered if the relevant firm knew or had reasonable cause to suspect that it held funds, but without the condition (which is a condition for (1ZA)) that the knowledge or suspicion must have come to the firm in the course of its business. The amendment updates the annual reporting requirement to be aligned with the initial reporting requirement.

6. Legislative and Legal Context

How has the law changed?

- 6.1 The Sanctions Act establishes a legal framework which enables His Majesty’s Government to impose sanctions for a number of purposes, which include the interests of international peace and security and the furtherance of a foreign policy objective of the government of the UK.
- 6.2 The instrument makes amendments to each of the Regulations set out in 4.2 as summarised below. While some of the amendments are of a more clarificatory nature, it was not considered that these changes could be appropriately effected by guidance. Changing the law also gives legal certainty to industry.
- 6.3 More specifically the instrument changes the law as follows:
- it broadens the scope of financial sanctions reporting obligations to add certain sectors to the need to report (see 5.4 – 5.6 above);
 - it changes the requirement on certain persons to report a suspected offence to a broader requirement to report a suspected breach of sanctions (5.7 – 5.10);
 - it introduces a statutory obligation on persons to provide an annual report of frozen assets held (5.11 – 5.13);
 - it updates the notification requirements for specific licences so that licence issuers will only need to notify the applicant for a licence (5.14 – 5.15);
 - for certain sanctions regimes it amends or adds to relevant licensing purposes and adds an exception for certain payments to regulatory authorities (5.16 – 5.17);
 - it moves DPRK land prohibitions into the Trade part of the DPRK regulations and provides OFSI with new powers to impose civil monetary penalties for violations of land prohibitions in the Russia Regulations (5.18 – 5.19);

- it updates the definition of a designated person in Treasury licences schedules, and certain exceptions, to confirm that this includes persons owned or controlled by the designated person (5.20 – 5.22);
- it amends certain asset freeze prohibitions on the making available of funds or economic resources to a person for the benefit of a designated person to ensure that this also covers payments made to a person for the benefit of a person that is owned or controlled by a designated person (5.23 – 5.24);
- for sanctions regimes that do not already do so, in the ‘disclosure to the Treasury’ provisions it clarifies the scope of the Treasury’s functions ‘in connection with sanctions’ to link this to sanctions regulations contained in the relevant set of Regulations (5.27 – 5.28);
- in the Russia Regulations, it clarifies that acting as a nominee shareholder, when that involves the use of a trust or similar arrangement, is a prohibited trust service (5.25 – 5.26); and modifies the reporting requirements that apply in relation to the funds or economic resources of certain prohibited persons (5.29 – 5.30).

Why was this approach taken to change the law?

- 6.4 A key purpose of this instrument is to strengthen the implementation of UK sanctions. The instrument contains a package of measures which will primarily help OFSI to fulfil its role but also help to clarify the law where appropriate. Amending the Regulations under the legal framework provided by the Sanctions Act is considered to be the most effective and appropriate way to change the law. This is in line with the approach taken for equivalent sanctions measures.

7. Consultation

Summary of consultation outcome and methodology

- 7.1 No formal written consultation has been carried out on this instrument. However, informal stakeholder engagement has taken place with representatives of high value dealers, art market participants, insolvency practitioners and letting agencies regarding their inclusion, under this instrument, as “relevant firms” subject to sanctions reporting obligations. Consultation was carried out in relation to the Sanctions Act itself.
- 7.2 There is neither a requirement in the Sanctions Act for public consultation on instruments made under the Act, nor is there any other legal obligation to consult in respect of this instrument. His Majesty’s Government will continue engagement with stakeholders on the implementation of UK sanctions.

8. Applicable Guidance

- 8.1 In accordance with section 43 of the Sanctions Act, applicable guidance will be published in relation to the prohibitions and requirements under the Amended Regulations. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument as no significant impacts on the private, voluntary, or public sectors are foreseen.

Impact on businesses, charities and voluntary bodies

- 9.2 There is no significant impact on businesses, charities or voluntary bodies, though familiarisation and compliance costs may be expected. In some cases, businesses may be required to make changes to their systems in order to comply with this instrument. However, it is reasonable to expect that any associated costs should be low.
- 9.3 The legislation does impact small and micro businesses. However small and micro businesses are not specifically targeted and therefore will not be exempt from the requirements of the instrument as this would be inconsistent with the aims of the Regulations.
- 9.4 There is no, or no significant, impact on the public sector because the instrument represents technical amendments to existing sanctions architecture and does not incur new burdens.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 If His Majesty's Government determined that it was no longer appropriate to maintain a sanctions regime or specific sanctions measures, that regime would be removed or amended accordingly. In the case of the Amended Regulations, that would include the measures introduced by this instrument. As such, the Minister does not consider that a review clause in this instrument is appropriate.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 This instrument, which is subject to the negative procedure, is laid before Parliament on 14 November 2024 under section 55(6) of the Sanctions Act.
- 11.2 Most of the provisions come into force on 5 December 2024. The extension of reporting obligations to new sectors (see paragraphs 5.4-5.6 above) will come into force 6 months after the day on which the Regulations are laid in Parliament: in this case, that will be 14 May 2025.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).