Sanctions: Russian Federation

› **Documents**
  › European Union
    › Council Regulation (EU) No 833/2014
  › Jersey Legislation
    › EU Legislation (Sanctions – Russia) (Jersey) Order 2014
    › EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014

› **EU guidance**
    http://ec.europa.eu/dgs/fpi/documents/russia_sanctions/1_act_part1_v2_en.pdf

› **Overview of current sanctions measures**
  › Current sanction measures implemented by Jersey in relation to the Russian Federation include:
    › Embargo on dual-use goods and technology, if intended for military use or for a military end-user ban on provision of certain services related to arms and military equipment
    › Ban on provision of certain services to certain persons, entities and bodies (dual-use goods and technology related)
    › Controls on export of certain items for the oil industry (deep water, Arctic and shale oil) and controls on the provision of certain related services
    › Restrictions on issuance of and trade in certain securities and money-market instrument (effectively preventing 5 state owned Russian banks and their subsidiaries, 3 entities in the oil sector and 3 defence companies accessing EU primary and secondary capital markets) (see also the Specific Information section)
    › Restriction on making certain claims made by certain persons, entities and bodies
Jersey regime

In July 2014, the EU agreed to a significant package of measures to deter further destabilisation of Ukraine by Russia. These measures are set out in Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia’s actions destabilising the situation in Ukraine, which entered into force on 1 August 2014 (EU Council Regulation).

As the original EU Council Regulation has been subject of various amendments, the individual amending EU Regulations and the latest consolidated version of the original EU Council Regulation can be found here by searching for them individually.

The EU Legislation (Sanctions – Russia) (Jersey) Order 2014 (in force from 12 December 2014) gives effect to and applies the EU Council Regulation. The Order contains an ambulatory reference (Article 2) to the Annexes to the EU Council Regulation. The effect of ambulatory provisions is such that whenever the Annexes to the EU Council Regulation are amended by way of Council Implementing Regulations (new entries added, existing entries modified or removed) that change takes effect automatically in Jersey without the need for any amendment to this Order.

The Order requires, by Articles 3 and 4(b), all of the standard general provisions, contained in the EU Legislation (Sanctions) (General Provisions) (Jersey) Order 2014 (General Provisions Order), to be read as part of this Order.

The Order creates offences (Article 5),

any person who:

contravenes Article 2, 2a, 3, 3a, 4, 5 or 12 of the EU Council Regulation;

intentionally furnishes false information or a false explanation to any person (the Minister or any person authorised by the Minister) exercising powers under Article 10 of the General Provisions Order; or

with intent to evade furnishing information or producing documents in accordance with Article 10 of the General Provisions Order, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

any person who, without reasonable excuse:

fails to comply with the request to furnish information or produce documents in accordance with Article 10 of the General Provisions Order within such time and in such manner as may be specified in the request,

is guilty of an offence and liable to imprisonment for a term of 3 months and to a fine.

Important note

There are also asset freezes imposed against certain individuals and entities in relation to threatening or undermining the territorial integrity, sovereignty and independence of Ukraine (Russia’s annexation of Crimea). These sanctions apply to all funds and economic resources belonging to, owned, held or controlled by those persons, entities or bodies listed.

For more information, please see the EU Legislation (Sanctions-Ukraine) (Jersey) Order 2014 and Council Regulation (EU) No 269/2014 as amended.
There are also restrictions relating to services, activities, persons, and entities, in Crimea and Sevastopol.

For more information, please the EU Legislation (Sanctions-Ukraine) (Jersey) Order 2014 and Council Regulation (EU) No 692/2014 as amended.

Specific Information (Article 5 and Article 12)

The sanctions measures imposed on Russia differ in some important ways from the sanctions measures imposed on other jurisdictions, as some of the measures are specifically aimed at limiting access to capital markets for certain Russian State-owned persons.

It is also important to note that:

- the EU Council Regulation does not impose asset freezes against any person listed in the Annexes to the EU Council Regulation, and
- the persons designated in the Annexes to the EU Council Regulation do not feature on the UK consolidated list of designated targets; and

Whilst the EU Council Regulation should be read and understood in its entirety, relevant excerpts have been provided below to highlight the sanctions measures designed to limit access to capital markets. From a financial services business point of view:

- Article 5 is specifically relevant and has therefore been set out below, along with the relevant definitions from Article 1 (“definitions”). To add clarity italics have been used to highlight defined terms and the persons listed in the Annexes have been included with bold type.
- Article 12 is equally important as it clearly states that participating, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions (including Article 5) is prohibited. Article 12 is set out below.

Article 5 of the EU Council Regulation¹

1. It shall be prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 90 days, issued after 1 August 2014 to 12 September 2014, or with a maturity exceeding 30 days, issued after 12 September 2014 by:

   (a) a major credit institution, or other major institution having an explicit mandate to promote competitiveness of the Russian economy, its diversification and encouragement of investment, established in Russia with over 50% public ownership or control as of 1 August 2014, as listed in Annex III [Sberbank; VTB Bank; Gazprombank; Vnesheconombank (VEB); Rosselkhozbank] or

   (b) a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50% by an entity listed in Annex III [Sberbank; VTB Bank; Gazprombank; Vnesheconombank (VEB); Rosselkhozbank] ; or

(c) a legal person, entity or body acting on behalf or at the direction of an entity referred to in point (b) of this paragraph or listed in Annex III [Sberbank; VTB Bank; Gazprombank; Vnesheconombank (VEB); Rosselkhozbank; or any person identified as a result of applying paragraph b].

2. It shall be prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 30 days, issued after 12 September 2014 by:
   (a) a legal person, entity or body established in Russia predominantly engaged and with major activities in the conception, production, sales or export of military equipment or services, as listed in Annex V [OPK Oboronprom; United Aircraft Corporation; Uralvagonzavod], except legal persons, entities or bodies active in the space or the nuclear energy sectors;
   (b) a legal person, entity or body established in Russia, which are publicly controlled or with over 50 % public ownership and having estimated total assets of over 1 trillion Russian Roubles and whose estimated revenues originate for at least 50% from the sale or transportation of crude oil or petroleum products, as listed in Annex VI [Rosneft; Transneft; Gazprom Neft];
   (c) a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50% by an entity listed in point (a) or (b) of this paragraph [OPK Oboronprom; United Aircraft Corporation; Uralvagonzavod; Rosneft; Transneft; Gazprom Neft]; or
   (d) a legal person, entity or body acting on behalf or at the direction of an entity referred to in point (a), (b) or (c) of this paragraph [OPK Oboronprom; United Aircraft Corporation; Uralvagonzavod; Rosneft; Transneft; Gazprom Neft; any person identified as a result of applying paragraph c].

3. It shall be prohibited to directly or indirectly make or be part of any arrangement to make new loans or credit with a maturity exceeding 30 days to any legal person, entity or body referred to in paragraph 1 or 2, after 12 September 2014. [Sberbank; VTB Bank; Gazprombank; Vnesheconombank (VEB); Rosselkhozbank; OPK Oboronprom; United Aircraft Corporation; Uralvagonzavod; Rosneft; Transneft; Gazprom Neft; any person identified as a result of applying paragraph 2(c); any person identified as a result of applying paragraph 2(d)]

The prohibition shall not apply to:
   (a) loans or credit that have a specific and documented objective to provide financing for non-prohibited imports or exports of goods and non-financial services between the Union and any third State, including the expenditure for goods and services from another third State that is necessary for executing the export or import contracts; or
   (b) loans that have a specific and documented objective to provide emergency funding to meet solvency and liquidity criteria for legal persons established in the Union, whose proprietary rights are owned for more than 50 % by any entity referred to in Annex III [Sberbank; VTB Bank; Gazprombank; Vnesheconombank (VEB); Rosselkhozbank].

4. The prohibition in paragraph 3 shall not apply to drawdown or disbursements made under a contract concluded before 12 September 2014 provided that the following conditions are met:
   (a) all the terms and conditions of such drawdown or disbursements:
      (i) were agreed before 12 September 2014; and
(ii) have not been modified on or after that date; and

(b) before 12 September 2014 a contractual maturity date has been fixed for the repayment in full of all funds made available and for the cancellation of all the commitments, rights and obligations under the contract.

The terms and conditions of drawdowns and disbursements referred to in point (a) include provisions concerning the length of the repayment period for each drawdown or disbursement, the interest rate applied or the interest rate calculation method, and the maximum amount.

Article 12 of the EU Council Regulation

It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions referred to in Articles 2, 2a, 3a, 4 or 5, including by acting as a substitute for the entities referred to in Article 5, or by using the exceptions in Article 5(3) to fund entities referred to in Article 5.

Definitions (Article 1 of the EU council Regulation)

‘investment services’ means the following services and activities:

(i) reception and transmission of orders in relation to one or more financial instruments,
(ii) execution of orders on behalf of clients,
(iii) dealing on own account,
(iv) portfolio management,
(v) investment advice,
(vi) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis,
(vii) placing of financial instruments without a firm commitment basis,
(viii) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility;

‘transferable securities’ means the following classes of securities which are negotiable on the capital market, with the exception of instruments of payment:

(i) shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares,
(ii) bonds or other forms of securitised debt, including depositary receipts in respect of such securities,
(iii) any other securities giving the right to acquire or sell any such transferable securities;

‘money-market instruments’ means those classes of instruments which are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers and excluding instruments of payment;

‘credit institution’ means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credit for its own account;