



Russia Sanctions Guidance

Exemption to fulfil statutory and regulatory obligations in respect of prohibitions on providing professional and business-related services to Russia connected persons

The UK Russia (Sanctions) (EU Exit) Regulations 2019 (the “UK Regulations”), are implemented in Jersey under the Sanctions and Asset Freezing (Jersey) Law 2019 and the Sanctions and Asset Freezing (Implementation of External Sanctions) (Jersey) Order 2021.

The UK Regulations impose financial, trade, aircraft, shipping, and immigration sanctions for the purpose of encouraging Russia to cease actions which destabilise Ukraine, or undermine or threaten the territorial integrity, sovereignty, or independence of Ukraine.

To achieve the stated purposes, the UK Regulations impose a number of prohibitions and requirements. In order to enforce these, the UK Regulations establish penalties and offences. One such prohibition is that outlined in regulation 54C (professional and business services):

Regulation 54C. –

(1) A person must not directly or indirectly provide, to a person connected with Russia

- (a) accounting services;*
- (b) advertising services,*
- (c) architectural services,*
- (d) auditing services,*
- (e) business and management consulting services;*
- (f) engineering services,*
- (g) IT consultancy and design services, or*
- (h) public relations services.*

(2) Paragraph (1) is subject to Part 7 (exceptions and licences).

(3) A person who contravenes any of the prohibitions in paragraph (1) (“P”) commits an offence, but it is a defence for P to show that P did not know and had no reasonable cause to suspect that the person to whom the services were provided was connected with Russia.

As outlined above, regulation 54C is subject to Part 7 (exceptions and licences), specifically regulation 60DA (Trade: exceptions relating to professional and business services), which has effect in Jersey:

Regulation 60DA. –

(1) The prohibitions in regulation 54C (professional and business services), in so far as they relate to accounting services, business and management consulting services, engineering services or public relations services, are not contravened by any act done by a person (“P”) in satisfaction of an obligation in respect of the provision of those services by P to a person connected with Russia where the services are provided in relation to the discharge of or compliance with UK statutory or regulatory obligations, such obligations not arising under contract.

(2) The prohibitions in regulation 54C, in so far as they relate to advertising services, architectural services, engineering services or IT consultancy and design services, are not contravened by any act done by a person (“P”) in satisfaction of an obligation arising under a contract concluded before 16th December 2022, or an ancillary contract necessary for the satisfaction of such a contract, provided that—

- (a) the act is carried out before the end of 15th March 2023, and*
 - (b) P notifies the Secretary of State of the provision of the services, before or after the act is carried out, by the end of 15th March 2023.*

- (3) The prohibitions in regulation 54C, in so far as they relate to auditing services, are not contravened by any act done by a person (“P”) in satisfaction of an obligation arising from the appointment of P as the auditor of a parent undertaking (“C”) provided that—*
 - (a) where C is a credit institution, the auditing services of P are for one or both of the purposes mentioned in paragraph (4);*
 - (b) where C is not a credit institution, or is a credit institution that does not meet the condition in sub-paragraph (a)—*
 - (i) P is appointed as auditor of C before 16th December 2022,*
 - (ii) the act is carried out before the end of 31st May 2023, and*
 - (iii) P notifies the Secretary of State of the provision of the services, before or after the act is carried out, by the end of 15th March 2023.*

- (4) The purposes are—*
 - (a) C, in its capacity as a parent undertaking, deciding whether accounts of a subsidiary undertaking of C which is a person connected with Russia (“S”) should be included in consolidated group accounts of C, and*
 - (b) the inclusion in consolidated group accounts of C of the accounts of S.*

- (5) The prohibitions in regulation 54C, in so far as they relate to auditing services, are not contravened by any act done by a person (“P”)—*
 - (a) in satisfaction of an obligation arising from the appointment of P as the auditor of a subsidiary undertaking (“S”) in respect of the provision of those services to S in relation to the discharge of or compliance with UK statutory or regulatory obligations, and*
 - (b) which results in the provision of those services indirectly to a person connected with Russia in that person’s capacity as a parent undertaking of S.*

- (6) The prohibitions in regulation 54C, in so far as they relate to IT consultancy and design services, are not contravened by the provision of—*
 - (a) an “electronic communications network” or an “electronic communications service” (within the meanings given by section 32 of the Communications Act 2003) that is used for civilian purposes, or*
 - (b) services that are incidental to the exchange of communications over the internet, including—*
 - (i) instant messaging,*
 - (ii) videoconferencing,*
 - (iii) chat and email,*
 - (iv) social networking,*
 - (v) sharing of photos, audio, videos, films or documents,*
 - (vi) web browsing,*
 - (vii) blogging,*
 - (viii) web hosting, and*
 - (ix) domain name registration services.*

(7) *The prohibitions in regulation 54C are not contravened by any act done by a person that is necessary for the official purposes of a diplomatic mission or consular post in Russia, or of an international organisation enjoying immunities in accordance with international law.*

(8) *For the purposes of this regulation, the following terms have the meanings given in regulation 54B—*

“accounting services”, “advertising services”, “architectural services”, “auditing services”, “business and management consulting services”, “engineering services”, “IT consultancy and design services” and “public relations services”.

(9) *For the purposes of this regulation—*

*“**auditor**” means a statutory auditor within the meaning of section 1210 of the Companies Act 2006 (meaning of “statutory auditor” etc);*

*“**consular post**” is to be construed in accordance with paragraph A1 of Schedule 5*

*“**credit institution**” means a body incorporated under the law of any part of the United Kingdom, the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account;*

*“**diplomatic mission**” is to be construed in accordance with paragraph A1 of Schedule 5;*

*“**financial year**” is to be construed in accordance with section 390 of the Companies Act 2006 (a company’s financial year);*

*“**included in consolidated group accounts**” has the meaning given in section 474 of the Companies Act 2006 (minor definitions) and “inclusion in consolidated group accounts” is to be construed accordingly;*

*“**parent undertaking**” has the meaning given in section 1162 of the Companies Act 2006 (parent and subsidiary undertakings);*

*“**subsidiary undertaking**” has the meaning given in section 1162 of the Companies Act 2006.”*

The reference to the Secretary of State in regulation 60DA should be read in the Jersey context as reference to the Minister for External Relations and Financial Services.

Noting both the prohibition under regulation 54C and the exception outlined under regulation 60DA of Part 7, individuals and businesses should, notwithstanding regulation 54C, continue to discharge their statutory duties and obligations.

“Statutory duties and obligations” for these purposes would include, without limitation, the following:

- the filing of an annual statement to the Jersey Financial Services Commission;
- the filing of a corporate or other tax return and associated accounts; and
- payments of tax and similar levies to the Government of Jersey.

Should individuals and/or businesses fail to discharge their statutory duties and obligations as required by statute, they will remain subject to the provisions of the relevant legislations. Penalties may include written notices/warnings, financial penalties, and ultimately penalties such as strike-off (for legal entities). It should be expected that all of these measures would proceed unless there are certain exceptional circumstances.