

Russia Sanctions: Guidance

04 November 2022

The Russia Sanctions Regime as implemented under Jersey's Sanctions Legislation

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

This legislation imposes financial, trade, transport and immigration sanctions to encourage Russia to cease actions which destabilise Ukraine, including actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. Various amendments to the UK Regulations have also been published under this regime together with the Sanctions Order and the Sanctions Law (together, “**Jersey's sanctions legislation**”) and should be read alongside this guidance. Jersey's sanctions legislation applies to Jersey, and it also applies to conduct by Jersey persons – both nationals and corporate bodies - outside of Jersey. The UK Regulations entered into force on 1 January 2020 and were implemented in Jersey on 12 February 2021 under the Sanctions Order.

The Sanctions Order replaced the EU Legislation (Sanctions - Russia) Order 2014, which implemented Council Regulation (EU) 833/2014 and the EU Legislation (Sanctions – Ukraine) Order 2014, which implemented Council Regulations 208/2014, 269/2014, and 692/2014.

The names of designated persons are not included in the UK Regulations or Jersey's sanctions legislation, but instead appear on an administrative list on gov.uk. This enables immediate publication following a decision to make or amend a designation, limiting the opportunity for asset flight.

Guidance on Russia sanctions

While there are different types of sanctions outlined in the UK Regulations and Jersey's sanctions legislation, this guidance produced by External Relations expands specifically on financial and investment restrictions. In addition to asset freezes, which are common among other sanctions regimes, these restrictions include additional unique measures that restrict access to capital markets, clearing services and dealing in reserves for Russian state-owned financial institutions.

They also detail restrictions on investments in relation to the Republic of Crimea and the city of Sevastopol.

Any exceptions related to each restriction, including instances where you may be able to apply for a licence from the Minister for External Relations (the “**Minister**”), are also outlined.

To achieve their purposes, the UK Regulations impose a number of prohibitions and obligations that are implemented in Jersey under the Sanctions Order. All sanctions against Russia under the UK Regulations are implemented automatically in Jersey.

There are many other provisions implemented under the Russia Sanctions Regime that are not covered in this guidance. For further guidance on the Russia Sanctions Regime, please consult the [JFSC regime guidance](#) and [UK statutory guidance](#).

Asset Freezes

One of the key financial prohibitions in force relates to designated persons. Designated persons are persons (natural or legal) who are subject to financial sanctions. These sanctions

include, but are not limited to: asset freezes, restrictions on making funds and or economic resources available to, or for the benefit of, designated persons, either directly or indirectly.

There are exceptions to some of the asset freezing provisions which apply within certain defined circumstances set out at Article 15 of the Sanctions Law and the UK Regulations. You should be particularly cautious when seeking to use exceptions in the UK Regulations, as they may have been drafted for a specific UK context (e.g. referring to UK legislation).

Where a designated person's assets have been frozen, the person or a representative may apply for a licence from the Minister to enable an otherwise prohibited use of frozen funds or economic resources, in certain circumstances. For further information, see the sanctions on gov.je.

Other restrictions: financial services and investments

Transferable securities or money-market instruments

Jersey's sanctions legislation implements prohibitions on dealing in certain transferable securities and money-market instruments set out in the UK Regulations. These prohibitions prohibit dealing with, directly or indirectly, a transferable security or money-market instrument if it has a maturity exceeding 30 days and was issued after 1 August 2014 by the following listed in the box below:

- Sberbank
- VTB Bank
- Gazprombank
- Vnesheconombank (VEB)
- Rosselkhozbank
- An entity incorporated or constituted in a jurisdiction other than Jersey which is owned directly or indirectly by one or more of the banks listed above

The UK Regulations also prohibit dealing, directly or indirectly, with a transferable security or money-market instrument if it has a maturity exceeding 30 days and was issued after 12 September 2014 by any of the following banks set out in the box below:

- OPK Oboronprom
- United Aircraft Corporation
- Uralvagonzavod
- Rosneft
- Transneft
- Gazprom Neft
- An entity incorporated or constituted in a jurisdiction other than Jersey which is owned, directly or indirectly, by one of these entities.

It is prohibited for a person to deal directly or indirectly with a transferable security or money-market instrument if it has a maturity exceeding 30 days, and was issued on or after 1 March 2022, if it was issued by a person other than an individual which is:

- incorporated and constituted under the law of Jersey and
- owned by a person falling within Schedule 2 of the UK Regulations
- a person other than an individual acting on behalf or at the direction of 1 and 2 above

It is also prohibited for a person to deal directly or indirectly with a transferable security or money-market instrument if it is issued on or after 1 March 2022 by or on behalf of

- a person connected with Russia that is not:
 - a person falling within schedule 2 of the UK Regulations
 - a person, other than an individual which on or after 1 March 2022, is domiciled in a country other than Russia, or a branch or subsidiary of such a person wherever located
- an entity owned or acting on behalf or at the direction of any of the above

For the purposes of the UK Regulations, a person connected with Russia is defined as:

- an individual who is, or an association or combination of persons who are, ordinarily resident or located in Russia
- a person, other than an individual who is incorporated or constituted under the law of Russia, or domiciled in Russia

It is also prohibited for a person to deal directly or indirectly with a transferable security or money-market instrument which was issued on or after 01 March 2022, by or on behalf of the government of Russia.

“Government of Russia” means—

- the Presidency of the Russian Federation
- public bodies and agencies subordinate to the President of the Russian Federation, including the Administration of the President of the Russian Federation
- the Chairman of the Government of the Russian Federation and the deputies of the Chairman of the Government
- any Ministry of the Russian Federation
- any other public body or agency of the Government of the Russian Federation, including the armed forces and law enforcement organs of the Russian Federation
- the Central Bank of the Russian Federation

“Money-market instrument” means an instrument of any kind normally dealt with on the money market, such as treasury bills, certificates of deposit and commercial papers, excluding instruments of payment.

“Transferable security” is a security that’s negotiable on the capital markets, including shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares. It also includes bonds or other forms of securitised debt, including depositary receipts in respect of such securities.

Other securities that give the right to purchase or sell any security of a kind mentioned above are also covered by the term. However, these do exclude instruments of payment.

Loan and credit arrangements

You must not, directly or indirectly, grant, or enter into any arrangement to grant a new loan or credit with a maturity exceeding 30 days (a category 1 loan) to:

- Sberbank
- VTB Bank
- Gazprombank
- Vnesheconombank (VEB)
- Rosselkhozbank
- OPK Oboronprom
- United Aircraft Corporation
- Uralvagonzavod
- Rosneft
- Transneft
- Gazprom Neft
- An entity incorporated or constituted in a country other than the UK which is owned by one of the abovementioned entities, or an entity acting on behalf or at the direction of one of the above entities

Some entities listed immediately above which appear in Schedule 2 of the UK Regulations are also subject to an asset freeze. To see all individuals and entities subject to an asset freeze, please consult the UK Office of Financial Sanctions Implementation’s (OFSI) consolidated list.

On or after 1 March 2022, you must not directly or indirectly, grant, or enter into any arrangement to grant any loan or credit with a maturity exceeding 30 days (a category 2 loan) to:

- an entity which is incorporated or constituted under the law of the UK and owned by an entity listed under Schedule 2 of the UK Regulations.

On or after 1 March 2022, you must not directly or indirectly, grant any loan or credit (a category 3 loan) to:

- a person other than an individual, connected with Russia
- The government of Russia

which is not either a category 1 or category 2 loan, or:

- a loan made or granted to a person other than an individual which is domiciled in a country other than Russia

NB: Category 1, 2, and 3 loans are defined in the UK Regulations.

Correspondent banking relationships

There are prohibitions on correspondent banking relationships.

A Jersey credit or financial institution must not establish or continue a correspondent banking relationship with:

- A designated person
- a Jersey credit or financial institution which is owned or controlled directly or indirectly by a designated person
- a non-Jersey credit or financial institution which is owned or controlled directly or indirectly by a designated person

A Jersey credit or financial institution is also prohibited from processing a sterling payment to, from or via a designated person, or a credit or financial institution which is owned or controlled directly or indirectly by the designated person, if it has reasonable cause to suspect that the payment is to, from or via a designated person.

Processing a payment includes clearing and settling a payment. This applies to payment chains or third-party payments.

Foreign exchange reserve and asset management

A Jersey individual or entity must not provide financial services for the purpose of foreign exchange reserve and asset management to:

- the Central Bank of the Russian Federation
- the National Wealth Fund of the Russian Federation
- the Ministry of Finance of the Russian Federation
- a person owned or controlled, directly or indirectly, by any of the persons above
- a person acting on behalf of, or at the direction of, any of the persons above

Foreign exchange reserve and asset management means activities relating to the reserves or assets of the persons listed above.

This includes money-market instruments (including cheques, bills and certificates of deposit); foreign exchange; derivative products (including futures and options); exchange rate and interest rate instruments (including products such as swaps and forward rate agreements); transferable securities; other negotiable instruments and financial assets (including bullion); and special drawing rights.

Exceptions

The prohibitions outlined in relation to loans and credit arrangements are not breached if any of the following are granted:

- a relevant loan that makes emergency funds available to meet applicable solvency or liquidity criteria for a relevant subsidiary, as defined in the UK Regulations
- a relevant loan consisting of a drawdown or disbursement made under an arrangement that was entered in to before either:
 - o 15 September 2014 for a category 1 loan
 - o On or after 1 March 2022 for a category 2 or category 3 loan

There is an exception for the processing of sterling payments. This does not apply to the processing of a sterling payment for any fee or charge required to permit an aircraft to overfly, land in or take off from Russia.

The national security or prevention of serious crime exception applies to all prohibitions.

As the exceptions in the UK Regulations were drafted specifically for a UK context and must be interpreted for the Jersey context, you are recommended to consider seeking independent legal advice before relying on these exceptions.

Investments in relation to Crimea

Any reference to Crimea in the UK Regulations means the Autonomous Republic of Crimea and the city of Sevastopol.

Under Jersey's sanctions legislation, it is prohibited to directly or indirectly, extend a participation, or acquire any ownership interest, in land located in Crimea. The same restrictions also apply when it comes to acquiring any ownership interest in an entity which has a place of business located in Crimea (a "relevant entity").

There is also a prohibition on granting any loan or credit to a relevant entity. This prohibition includes entering into any arrangement to grant a loan or credit, or otherwise provide funds, including equity capital, to a relevant entity, or for the purpose of financing any such entity.

It is prohibited to establish a joint venture in Crimea or with a relevant entity.

It is also prohibited to provide any investment services directly related to any of the activities listed above.

Exceptions

Provided that a person notifies the Minister no later than five working days before the day on which an act is carried out, no prohibition relating to investments in Crimea are contravened by a person meeting an obligation under a contract that was concluded before 20 December 2014. This includes an ancillary contract necessary to satisfy such a contract. Additionally, the prohibitions on investments in Crimea are not contravened by a person operating outside Crimea where the related investment is not destined for an entity in Crimea.

However, as the exceptions referred to above from the UK Regulations were drafted specifically for a UK context and must be interpreted for the Jersey context, you are recommended to consider seeking independent legal advice before relying on these exceptions.

Additionally, where an activity would otherwise be prohibited in relation to investments in

Crimea, a person or their representative may apply for a licence from the Minister to carry out those activities in certain circumstances. The Minister expects that legal and professional advisers will have fully considered the relevant law and formed a view about an application before approaching the Minister for guidance or submitting an application. All applications are assessed against the relevant legislation and are done so on a case by case basis.

Investments in Russia

There are prohibitions on investing in Russia, in addition to the loans and transferable securities prohibitions in the UK Regulations. You are restricted from making **direct** acquisitions of any ownership interest in land in Russia and in persons (other than individuals) connected with Russia. You are also prohibited from making **indirect** acquisitions of any ownership interest in land or persons (other than individuals) connected with Russia (for example acquisitions of ownership interest in third-country firms which own land in Russia or own persons connected with Russia) for the purpose of making funds or economic resources available to or for the benefit of persons connected with Russia. You are also prohibited from **direct or indirect** acquisitions of any ownership interest in entities with a place of business in Russia (which are not persons connected with Russia), for that purpose.

The establishment of certain commercial arrangements in Russia is also prohibited. Namely, establishing new branches, offices and subsidiaries in Russia, as well as joint ventures with persons connected with Russia.

Providing investment services directly relation to any of the above activities is prohibited.

Where these activities would otherwise be prohibited and the exceptions below do not apply, a person may apply for a licence from the Minister to carry out activities in certain specified circumstances. These can be found in regulation 7 of the UK Regulations.

Exceptions

None of these prohibitions will be contravened by a person undertaking an action to meet an obligation under a contract that was concluded before 19 July 2022 (or an ancillary contract necessary for the satisfaction of that contract), provided that person notifies the Minister no later than 5 working days before the day on which the act is carried out.

Additionally, the above prohibitions are not contravened by dealing with relevant transferable securities as defined in the Regulations. In particular:

- If this would be prohibited under Regulation 16 of the UK Regulations;
- Relevant transferable securities issued by:
 - Entities with a place of business in Russia but which are not persons connected with Russia: and
 - A person connected with Russia where the security was admitted to trading on a regulated market or multilateral trading facility prior to the coming into force of the SI.

However, as the exceptions referred to above from the UK Regulations were drafted specifically for a UK context and must be interpreted for the Jersey context, you are recommended to consider seeking independent legal advice before relying on these exceptions.

Licensing

Asset freezes

Where a transaction involves a designated person who is subject to an asset freeze, you may be able to obtain a licence to allow the activity to take place without breaching financial sanctions.

The Minister will only normally issue licences for specific purposes. These are:

- basic needs
- legal services
- maintenance of frozen funds and economic resources
- extraordinary expenses

- pre-existing judicial decisions
- extraordinary situation
- prior obligations
- consular posts
- humanitarian assistance activity
- medical goods and services
- production or distribution of food for the civilian population
- diplomatic missions

Securities, loans and credits

The Minister may issue a licence under the securities, loans and credit restrictions for:

- humanitarian assistance activity
- medical goods and services
- production or distribution of food for the civilian population
- diplomatic missions
- space activity
- extraordinary situation

Correspondent banking relationships

The Minister may issue a licence under the correspondent banking relationships restrictions for:

- basic needs
- legal services
- financial regulation
- extraordinary situations

Sterling payments

The Minister may issue a licence under the processing sterling payments restrictions for:

- humanitarian assistance activity
- medical goods and services
- production or distribution of food for the civilian population
- diplomatic missions
- space activity

Foreign exchange reserve and asset management

The Minister may issue a licence under the prohibitions relating to foreign exchanges reserve and asset management for:

- humanitarian assistance activity
- financial regulation
- financial stability
- safety and soundness of a firm
- extraordinary situation

Investment in Crimea

The Minister may issue a licence under the investments in Crimea restrictions for

- consular posts
- medical and educational purposes
- health and the environment

UK General licences

OFSI has also issued general licences under this regime.

UK General licences (Russia only) for non-asset freeze prohibitions only have automatic effect in Jersey.

UK General Licences (Russia only) for asset freezing prohibitions are not implemented in Jersey. However, they may form the basis for a licence application to the Minister.


For details of the general licences that are in force, please visit OFSI's general licence page at:

<https://www.gov.uk/government/collections/ofsi-general-licences>

Contacting the Minister

If you find out that a person or organisation you are dealing with is subject to financial sanctions as implemented by Jersey's sanctions legislation, you must immediately:

- stop dealing with them
- freeze any assets you are holding for them
- inform the Minister as soon as is practicable

You should use the  [Sanctions Compliance Reporting Form](#) to comply with any reporting obligations in respect of financial sanctions

and return the completed form to sanctions@gov.je.