EXPLANATORY MEMORANDUM TO

THE RUSSIA (SANCTIONS) (EU EXIT) (AMENDMENT) (NO. 15) REGULATIONS 2022

2022 No. 1110

1. Introduction

1.1 This explanatory memorandum has been prepared by the Foreign, Commonwealth and Development Office and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument is made under the Sanctions and Anti-Money Laundering Act 2018 ('the Sanctions Act') to make amendments to the Russia (Sanctions) (EU Exit) Regulations 2019 (S.I. 2019/855) ('the 2019 Regulations'). These amendments will extend restrictions on trade with Russia for the purposes of encouraging Russia to cease actions destabilising Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine, as stated in regulation 4 of the 2019 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument, which is subject to the made affirmative procedure, is laid before Parliament on 28 October under section 55(3) of the Sanctions Act and comes into force on 29 October, with the exception of the prohibition on the export of the 'Russia's Vulnerable Goods' list and the import of Liquefied Natural Gas (LNG) which will come into force on 1 January 2023.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the same as the territorial extent of the instrument which it amends: that is, the whole of the United Kingdom ('UK').

4.2 Subject to paragraph 4.3, the territorial application of this instrument is also the same as the territorial application of the instrument that it amends. That is, it applies to the whole of the UK.

4.3 This instrument also applies to conduct by UK persons where that conduct is wholly or partly outside the UK, and it also apply to conduct by any person in the territorial sea adjacent to the UK.[1]

[1] UK persons includes British nationals, as well as all bodies incorporated or constituted under the law of any part of the UK. Accordingly, the prohibitions and requirements imposed by the Regulations apply to all companies established in any part of the UK, and they also apply to branches of UK companies operating overseas.

5. European Convention on Human Rights

5.1 Leo Docherty MP, Minister of State at the Foreign, Commonwealth and Development Office, has made the following statement regarding human rights:

"In my view the provisions of the Russia (Sanctions) (EU Exit) (Amendment) (No.15) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 The Sanctions Act establishes a legal framework which enables His Majesty's Government to impose sanctions for a number of purposes, including that it is in the interests of international peace and security and furthers a foreign policy objective of the government of the UK.

6.2 This instrument makes amendments to the 2019 Regulations, which were made under the Sanctions Act for discretionary purposes within section 1(2) of the Sanctions Act.

7. Policy background

What is being done and why?

7.1 This instrument amends the 2019 Regulations to impose prohibitions and requirements in relation to financial and trade sanctions measures.

7.2 Following its illegal annexation of Crimea in 2014, Russia continued a pattern of aggressive action towards Ukraine that culminated in the invasion of Ukraine's sovereign territory on 24 February 2022. This was announced by President Putin as a "special military operation". It included recognising the "Donetsk People's Republic" and "Luhansk People's Republic" as independent states and the deployment of Russian military forces across Ukraine. Subsequently Russia held sham referenda on sovereign Ukrainian territory and attempted to illegally annex Ukraine's regions of Luhansk, Donetsk, Kherson and Zaporizhzhia, in flagrant violation of international law, including the UN Charter.

7.3 The UK has called on Russia to cease its military activity, withdraw its forces from the entire territory of Ukraine within its internationally recognised borders and fulfil its international commitments including under the 1975 Helsinki Act, the 1994 Budapest Memorandum and the UN Charter. The UK remains committed to providing Ukraine with the support it needs to uphold its independence, sovereignty and territorial integrity. UK policy is focused on ending Russia's illegal war in Ukraine, ensuring that Ukraine can defend itself against Russian's aggression in the future, and building a stable, prosperous and democratic future for all its citizens. The UK is unwavering in its support for the country's independence, territorial integrity and sovereignty.

7.4 These sanctions are part of a broader set of measures that includes diplomatic, military, financial, and humanitarian support; trade sanctions, financial sanctions; and designations. Change will therefore be sought through diplomatic pressure, and other measures, supported by implementing trade sanctions in respect of actions undermining the territorial integrity, sovereignty and independence of Ukraine.

7.5 This instrument amends Part 5 (Trade) of the 2019 Regulations, which contains trade sanctions measures, and makes related consequential amendments. Previous trade sanctions include wide ranging prohibitions on the export of critical goods for Russia's military objectives, including defence and security goods and technology,

and quantum computing and dual-use items; goods that would strengthen Russia's strategic sectors, including critical-industry goods; goods used for Russia's energy sector and luxury goods; and import prohibitions on iron and steel products, certain gold products, oil, coal, and key revenue generating goods that originate or are consigned from Russia.

7.6 This instrument provides for a number of trade restrictions to build on those already in place. These further restrictions include:

- prohibitions on the export, supply and delivery, and making available of goods (as well as related technical assistance, financial services and funds, and brokering services), to, or for use in Russia, that are critical to the functioning of Russia's economy. This measure builds on previous sanctions introduced by the Russia (Sanctions) (EU Exit) (Amendment) (No.14) Regulations 2022 to further limit Russian access to goods that have been identified as items of significant importance to the Russian economy. By prohibiting Russian access to certain key goods that power its economy, in particular the manufacturing sector, the UK will further isolate Russia's economy and key industries that directly or indirectly support the war in Ukraine. These will form the new Russia Vulnerable Goods list. Appropriate licences can be sought for prohibited activity, for example for humanitarian purposes. This measure will be brought into force on 1 January 2023.
- an expansion of the current prohibitions on the export, supply and delivery, and making available of additional products (as well as related technical assistance, financial services and funds, and brokering services), to, or for use in Russia, to be added to the G7 Dependency and Further Goods list. The aim of this measure is to further align with the EU's existing prohibitions to include oil refining technology and manufacturing products, which support strategically important sectors of the Russian economy. Appropriate licences can be sought for prohibited activity, for example for humanitarian purposes;
- prohibitions on the import of LNG, which is consigned from or originates in Russia, and the acquisition of LNG (as well as related technical assistance, financial services and funds, and brokering services), which originates in Russia or which is located in Russia, with the intention of the LNG entering the UK. The aim of this measure is to deprive Russia of a key export market and further prevent the Russian state from generating revenue to finance military action in Ukraine, putting more economic pressure on the Russian regime and encouraging them to change policy. This measure will be brought into force on 1 January 2023;
- an expansion of the list of revenue generating goods included in Schedule 2E. The aim of this measure is to align with the EU to include two Russian product groups: beverages, spirits, and vinegar (including vodka); food waste products (primarily beet pulp). Appropriate licences can be sought for prohibited activity; and
- prohibitions on the import of gold (as well as related technical assistance, financial services and funds, and brokering services), which has been processed in a third country and incorporates gold that, on or after 21st July 2022, originated in Russia and has been exported from Russia; and on the import and acquisition of gold jewellery (as well as technical assistance and financial services and funds and brokering services), which originates in Russia, is

located in Russia and has been exported from Russia (with an exception for personal use, which will also apply to the export of gold jewellery), with the intention of that gold jewellery entering the United Kingdom. The aim of these measures is to further prevent the Russian state from generating revenue to finance military action in Ukraine and put more economic pressure on the Russian regime to encourage the government to change policy by aligning further with the EU.

7.7 This instrument also amends Part 3 (Finance) of the 2019 Regulations to expand a ban that prohibits loans to certain companies connected with Russia or owned by persons connected with Russia, to increase pressure on Russia's economy and deprive it from the funds that could support the war in Ukraine. In particular, it amends regulation 17(5), on loans and credit to bring companies outside Russia owned by a person connected with Russia into scope, including UK companies. In doing so it creates a new category of loan and phases out the existing category of loan to cover any loans made during the period between the original amendment regulations coming into force and this amendment being made.

7.8 The instrument also makes amendments to the 2019 Regulations to provide for exceptions from these measures and additional licensing criteria and minor changes to definitions in response to the Joint Committee on Statutory Instruments' scrutiny of Amendment No.14.

7.9 The amendments that this instrument makes to the 2019 Regulations will only apply to Russia.

8. European Union Withdrawal and Future Relationship

8.1 This instrument itself does not relate to withdrawal from the European Union ('EU') / trigger the statement requirements under the European Union (Withdrawal) Act 2018. The 2019 Regulations are related to the withdrawal of the UK from the EU because they replaced, with substantially the same effect, the previous EU Russia- and Ukraine-related sanctions regimes.

9. Consolidation

9.1 The 2019 Regulations have been amended by S.I. 2020/590; S.I. 2020/951; S.I. 2022/123; S.I. 2022/194; S.I. 2022/195; S.I. 2022/203; S.I. 2022/205; S.I. 2022/241; S.I. 2022/395; S.I. 2022/452; S.I. 2022/477; S.I. 2022/792; S.I. 2022/801; S.I. 2022/814; S.I. 2022/818; S.I. 2022/850 and by the Sentencing Act 2020 (c. 17). This instrument does not consolidate previous instruments. The Foreign, Commonwealth and Development Office will keep the need for consolidation under review.

10. Consultation outcome

10.1 No consultation has been carried out on this instrument. The Explanatory Memorandum to the 2019 Regulations explains the consultation that has been carried out in relation to the Sanctions Act.

10.2 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.

11. Guidance

11.1 In accordance with section 43 of the Sanctions Act, guidance has been published in relation to the prohibitions and requirements under the 2019 Regulations. This guidance will be updated to reflect the amendments to those Regulations made by this instrument.

12. Impact

12.1 The FCDO and Department for International Trade assess that the direct impacts and costs to business resulting from these sanctions can be summarised as:

- The Net Present Social Value of the overall set of proposed measures is estimated as a negative of around £120m over the appraisal period (2022 – 2030).[2] Net Present Social Value is the Present Social Value of Benefits minus the Present Social Value Costs, and so demonstrates the overall current monetary value of a policy option.
- The Equivalent Annual Net Direct Cost to Business (EANDCB) - which focuses on the direct impacts on business – for the proposed set of measures is estimated at a cost of £15.2m.

12.2 UK businesses must already comply with sanctions against individuals and entities appearing on a regularly updated gov.uk list. The process for notifying businesses about sanctions remains unchanged, so we do not expect significant changes to IT systems or administrative changes.

12.3 A full Impact Assessment for this instrument, is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation gov.uk website.

12.4 An impact assessment was produced for the primary legislation and can be found here.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to mitigate regulatory burdens on small businesses.

13.3 The FCDO does not believe it is possible to exempt smaller businesses from the requirements to comply with the measures introduced by this instrument, as this could provide a route for the circumvention or evasion of sanctions.

14. Monitoring & review

14.1 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 2019 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.

[2] In 2019 prices. The Net Present Social Value of a policy is the Present Value of Benefits minus the Present Value Costs, and so demonstrates the overall current monetary value of a policy option.

15. Contact

15.1 The Sanctions Directorate at the Foreign, Commonwealth and Development Office Telephone: 0207 008 8553 or email: Sanctions@fcdo.gov.uk can be contacted with any queries regarding the instrument.

15.2 Abigail Culank, Deputy Director, Sanctions Directorate at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Leo Docherty MP, Minister of State at the Foreign, Commonwealth and Development Office, can confirm that this Explanatory Memorandum meets the required standard.