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From Russia with Sanctions

UK & EU Sanctions Regimes relating to Russia

United Kingdom

- Set out in the Russia (Sanctions) (EU Exit) Regulations 2019 (“**UK Regulation**”) - which came fully into force on 31 December 2020.
- Established under the Sanctions and Anti-Money Laundering Act 2018.
- The Regulations were supplemented and amended at various times by statutory instruments throughout 2022 and remain under constant review.
- Penalties for offences are imprisonment for a term not exceeding 7 years (for offences under financial or transport sanctions) or 10 years (for offences under trade sanctions) or a fine (or both).

European Union

- Predominantly governed by Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014 (each as amended).
- Aviation sanctions imposed by the EU contained in Council Regulation (EU) No 833/2014 (as amended).
- Member States determine the rules on penalties, including criminal penalties, applicable to offences.

Scope and Application

UK Sanctions

Apply:

- within the territory of the UK
- to UK nationals wherever they are located
- to UK incorporated entities and their branches
- to any person within the territory of the UK, regardless of their nationality
- on-board any aircraft or vessel under the jurisdiction of the UK
- British Overseas Territories (e.g. Gibraltar) and Crown Dependencies (e.g. Isle of Man, Guernsey, Jersey) on a case by case basis

EU Sanctions

Apply:

- within the territory of the EU
- to EU nationals wherever they are located
- to EU incorporated entities and their branches
- to any persons within the territory of the EU, regardless of their nationality
- on board any aircraft or vessel under the jurisdiction of an EU Member State.

Designated Persons – UK Sanctions

- *The Secretary of State may designate persons by name [or, provide that persons of a description specified by the Secretary of State are designated persons] [**“designated person”**] for the purposes of any of the following—*
 - *regulations 11 to 15 (asset-freeze etc.)*
 - *regulation 17A (correspondent banking relationships etc.)*
 - *regulation 18C (trust services)*
 - *regulation 20 (immigration)*
 - *regulation 46A (technical assistance relating to aircraft and ships)*
 - *regulation 54A (internet services)*
 - *regulations 57A and 57C to 57E (ships: prohibition on port entry etc.)*
 - *regulations 57J (movement of aircraft) and 57M (registration of aircraft in the UK)*
- (Regulations 5(1) and 5(1A))**

Asset Freezing – EU Sanctions

- *All funds and economic resources belonging to, owned, held or controlled by any natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I, shall be frozen.*
(Article 2(1) Council Regulation (EU) No 269/2014)
- *No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I.*
(Article 2(2) Council Regulation (EU) No 269/2014)
- *“Economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services.*
- *“Freezing of economic resources” means preventing the use of economic resources to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.*
(Article 1 Council Regulation (EU) No 269/2014)

Export and Supply of Aircraft – UK Sanctions

- *The export of restricted goods to, or for use in, Russia is prohibited. (Regulation 22)*
- *A person must not:*
 - *directly or indirectly supply or deliver restricted goods from a third country to a place in Russia; (Regulation 24(1)(a))*
 - *directly or indirectly make restricted goods or restricted technology available to a person connected with Russia [or] for use in Russia. (Regulations 25(1)(a) and (b))*

Export and Supply of Aircraft – EU Sanctions

- *It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods and technology suited for use in aviation or the space industry, as listed in Annex XI, and jet fuel and fuel additives as listed in Annex XX, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.*

(Article 3c(1) Council Regulation (EU) No 833/2014)

[NB. Like the EU Regulations, the UK Regulations also includes offences for the export, supply, delivery, and making available of jet fuel and additives (and the provision of technical assistance, financial services and brokering services in relation thereto) to a person connected with Russia or for use in Russia (**UK Regulations 46N – 46Q**).]

Key Terms

UK Sanctions

- “*Restricted goods*” and “*restricted technology*” include aviation and space goods and technology.
- “*Aviation and space goods*” means:
 - (a) any thing specified in Schedule 2C [of the UK Regulation], other than any thing which is aviation and space technology, and
 - (b) any tangible storage medium on which aviation and space technology is recorded or from which it can be derived;
- “*Aviation and space technology*” means any thing described in Schedule 2C [of the UK Regulation] as software or technology (**Regulation 21(1)**)
- A person is to be regarded as “*connected with*” Russia if the person is:
 - an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,
 - an individual who is, or an association or combination of individuals who are, located in Russia,
 - a person, other than an individual, which is incorporated or constituted under the law of Russia, or
 - a person, other than an individual, which is domiciled in Russia.(**Regulation 21(1)**)

EU Sanctions

- “*technical assistance*” means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance;
 - “*brokering services*” means:
 - the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country, or
 - the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country;
 - “*financing or financial assistance*” means any action, irrespective of the particular means chosen, whereby the person, entity or body concerned, conditionally or unconditionally, disburses or commits to disburse its own funds or economic resources, including but not limited to grants, loans, guarantees, suretyships, bonds, letters of credit, supplier credits, buyer credits, import or export advances and all types of insurance and reinsurance, including export credit insurance; payment as well as terms and conditions of payment of the agreed price for a good or a service, made in line with normal business practice, do not constitute financing or financial assistance;
- (
- Article 1 Council Regulation (EU) No 833/2014**
-)

Technical Assistance – UK Sanctions

- *A person must not directly or indirectly provide technical assistance relating to restricted goods or restricted technology:*
 - *to a person connected with Russia, or*
 - *for use in Russia. (Regulation 27(1))*

- *A person must not directly or indirectly provide to, or for the benefit of, a designated person technical assistance relating to...an aircraft. (Regulation 46A)*

- *“Technical assistance”, in relation to goods or technology, means—*
 - *technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, or*
 - *any other technical service relating to the goods or technology. (Regulation 21(1))*

Technical Assistance – EU Sanctions

- *It shall be prohibited to provide any one or any combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection, in relation to the goods and technology listed in Annex XI [aircraft, spacecraft, and parts thereof], directly or indirectly, to any natural or legal person, entity or body in Russia or for use in Russia. (Article 3c (3) Council Regulation (EU) No 833/2014)*
- *It shall be prohibited to... provide technical assistance... or other services related to the goods and technology referred to in [Article 3c (1)] and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia. (Article 3c(4)(a) Council Regulation (EU) No 833/2014)*

Financial Services related to Restricted Goods and Technology – UK Sanctions

- *A person must not directly or indirectly provide, to a person connected with Russia, financial services in pursuance of or in connection with an arrangement whose object or effect is—*
 - *the export of restricted goods,*
 - *the direct or indirect supply or delivery of restricted goods,*
 - *directly or indirectly making restricted goods or restricted technology available to a person,*
 - *the transfer of restricted technology, or*
 - *the direct or indirect provision of technical assistance relating to restricted goods or restricted technology. (Regulation 28(1))*
- *A person must not directly or indirectly make funds available to a person connected with Russia in pursuance of or in connection with an arrangement mentioned in [Regulation 28(1)]. (Regulation 28(2))*
- *A person must not directly or indirectly provide financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—*
 - *the export of restricted goods to, or for use in, Russia;*
 - *the direct or indirect supply or delivery of restricted goods to a place in Russia;*
 - *directly or indirectly making restricted goods or restricted technology available—*
 - *to a person connected with Russia, or*
 - *for use in Russia;*
 - *the transfer of restricted technology—*
 - *to a person connected with Russia, or*
 - *to a place in Russia; or*
 - *the direct or indirect provision of technical assistance relating to restricted goods or restricted technology—*
 - *to a person connected with Russia, or*
 - *for use in Russia. (Regulation 28(3))*

Financial Services related to Aircraft Goods and Technology – EU Sanctions

- *It shall be prohibited to...provide financing or financial assistance related to the goods and technology referred to [Article 3c (1)] for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.*

(Article 3c(4)(b) Council Regulation (EU) No 833/2014)

Brokering Services – UK Sanctions

- *A person must not directly or indirectly provide brokering services in relation to an arrangement (“arrangement A”) whose object or effect is—*
 - *the direct or indirect supply or delivery of restricted goods from a third country to a place in Russia;*
 - *directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery—*
 - *to a person connected with Russia, or*
 - *to a place in Russia;*
 - *directly or indirectly making restricted technology available in a third country for transfer—*
 - *to a person connected with Russia, or*
 - *to a place in Russia;*
 - *the transfer of restricted technology from a place in a third country—*
 - *to a person connected with Russia, or*
 - *to a place in Russia;*
 - *the direct or indirect provision, in a non-UK country, of technical assistance relating to restricted goods or restricted technology—*
 - *to a person connected with Russia, or*
 - *for use in Russia;*
- *the direct or indirect provision, in a non-UK country, of financial services—*
 - *to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(1), or*
 - *where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(3);*
- *directly or indirectly making funds available, in a non-UK country, to a person connected with Russia, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(1); or*
- *the direct or indirect provision of funds from a non-UK country, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(3). (Regulation 29(1))*

Brokering Services – UK Sanctions (cont.)

- *“Brokering service” means any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—*
 - *the selection or introduction of persons as parties or potential parties to the arrangement,*
 - *the negotiation of the arrangement,*
 - *the facilitation of anything that enables the arrangement to be entered into, and*
 - *the provision of any assistance that in any way promotes or facilitates the arrangement; (Regulation 21(1))*

Brokering Services – EU Sanctions

- *It shall be prohibited to... provide... brokering services or other services related to the goods and technology referred to [Article 3c (1)] and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.*

(Article 3c(4)(a) Council Regulation (EU) No 833/2014)

Insurance and Reinsurance Services

United Kingdom

- *A person must not directly or indirectly provide insurance or reinsurance services relating to aviation and space goods or aviation and space technology—*
- *(a) to a person connected with Russia, or*
- *(b) for use in Russia.*

(Regulation 29A(1))

European Union

- *It shall be prohibited to provide insurance and reinsurance, directly or indirectly, in relation to goods and technology listed in Annex XI [aircraft, spacecraft, and parts thereof] to any person, entity or body in Russia or for use in Russia.*

(Article 3c(2) Council Regulation (EU) No 833/2014)

Business and Professional Services – UK Sanctions

- A person must not directly or indirectly provide, to a person connected with Russia:
 - accounting services,
 - advertising services,
 - architectural services,
 - auditing services,
 - business and management consulting services,
 - engineering services,
 - IT consultancy and design services, or
 - public relations services. (**Regulation 54(C)**)
- A person must not provide trust services to or for the benefit of a designated person. (**Regulation 18C(1)**).
- A person (“P”) must not provide trust services to or for the benefit of a person connected with Russia (“C”) unless pursuant to an ongoing arrangement pursuant to which P provided those trust services to or for the benefit of C immediately before 16th December 2022. (**Regulation 18C(2)**)
- For the purposes of Regulations 18C(1) and (2), trust services are provided for the benefit of a person (“B”) where—
 - B is a beneficiary of a trust or similar arrangement,
 - B is referred to as a potential beneficiary in a document from the settlor relating to a trust or similar arrangement (such as a letter of wishes), or
 - having regard to all the circumstances, B might reasonably be expected to obtain, or to be able to obtain, a significant financial benefit from the trust or similar arrangement. (**Regulation 18C(5)**)
- “Trust services” means—
 - the creation of a trust or similar arrangement,
 - the provision of a registered office, business address, correspondence address or administrative address for a trust or similar arrangement,
 - the operation or management of a trust or similar arrangement, or
 - acting or arranging for another person to act as trustee of a trust or similar arrangement, where “trustee”, in relation to an arrangement similar to a trust, means a person who holds an equivalent or similar position to a trustee of a trust. (**Regulation 18C(7)**)

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Business and Professional Services – EU Sanctions

- *It shall be prohibited to provide, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services to:*
 - *the Government of Russia; or*
 - *legal persons, entities or bodies established in Russia.*

(Article 5n(1) Council Regulation (EU) No 833/2014)
- *It shall be prohibited to provide, directly or indirectly, architectural and engineering services, legal advisory services and IT consultancy services to:*
 - *the Government of Russia; or*
 - *legal persons, entities or bodies established in Russia.*

(Article 5n(2) Council Regulation (EU) No 833/2014)
- *It shall be prohibited to register, provide a registered office, business or administrative address as well as management services to, a trust or any similar legal arrangement having as a trustor or a beneficiary [that are]:*
 - a) Russian nationals or natural persons residing in Russia;*
 - b) legal persons, entities or bodies established in Russia;*
 - c) legal persons, entities or bodies whose proprietary rights are directly or indirectly owned for more than 50 % by a natural or legal person, entity or body referred to in points (a) or (b);*
 - d) legal persons, entities or bodies controlled by a natural or legal person, entity or body referred to in points (a), (b) or (c);*
 - e) a natural or legal person, entity or body acting on behalf or at the direction of a natural or legal person, entity or body referred to in points (a), (b), (c) or (d).*
 - *It shall be prohibited as of 5 July 2022 to act as, or arrange for another person to act as, a trustee, nominee shareholder, director, secretary or a similar position, for a trust or similar legal arrangement as referred to in [Article 5m(1)].*

(Article 5m Council Regulation (EU) No 833/2014)

Movement of Aircraft

UK Sanctions

- *A Russian aircraft must not—*
 - *overfly the United Kingdom, or*
 - *land in the United Kingdom.*

(Regulation 57J(1))
- *“Russian aircraft” means an aircraft—*
 - *owned, chartered or operated by—*
 - *a designated person, or*
 - *a person connected with Russia, or*
 - *registered in Russia.*

(Regulation 57J(10))

EU Sanctions

- *It shall be prohibited for any aircraft operated by Russian air carriers, including as a marketing carrier in code-sharing or blocked-space arrangements, or for any Russian registered aircraft, or for any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the Union.*

(Article 3d Council Regulation (EU) No 833/2014)

Movement of Aircraft (cont.)

Unlike the UK Sanctions, the EU Sanctions do not define Russian aircraft or Russian natural persons.

EASA released FAQ n. 136186 - intended to help and give guidance to national authorities, EU operators and citizens for the implementation of Council Regulation (EU) No 833/2014 and Council Regulation (EU) No 269/2014 – which states ***“[A] Russian natural person should be understood as any person with Russian nationality, regardless of whether that person also possess[es] another nationality, citizenships [sic] or a permanent residency in the EU”***.

This position is supported by the Commission Consolidated FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014:

“If a person holds RU passport (as well as any other passports / dual/multi citizenship), this person is to be treated as RU citizen for the purpose of Article 3d of this Regulation, for all cases of an ownership, chartering and control of aircraft, also when having the EU Member States residency.”

Anti-Circumvention

UK Sanctions

- *A person must not intentionally participate in activities knowing that the object or effect of them is (whether directly or indirectly)*
 - *to circumvent any of the prohibitions in regulations 11 to 18C,*
 - *to circumvent any of the prohibitions in Chapters 2 to 6 and Chapter 6B of this Part 5 of the UK Regulation, or*
 - *to enable or facilitate the contravention of any such prohibitions.*
- (Regulations 19 and 55)**

EU Sanctions

- *It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in [Council Regulation (EU) No 833/2014].*
(Article 12 Council Regulation (EU) No 833/2014)
- *It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the [asset freezing] measures referred to in Article 2 [of Council Regulation (EU) No 269/2014].*
(Article 9(1) Council Regulation (EU) No 269/2014)

From Russia with Sanctions – U.S. Efforts

- March 16, 2022, United States and world leaders launched the Russian Elites, Proxies and Oligarch task force (aka “Oligarch task force”); the U.S. Departments of Justice and Treasury lead the U.S. efforts.
 - United States Attorney’s Offices (Justice)
 - Federal Bureau of Investigation (Justice)
 - U.S. Marshals Service (Justice)
 - U.S. Department of State (Executive Orders – Blocking)
 - Office of Foreign Asset Control (OFAC - Treasury)
 - Bureau of Industry and Security (BIS – Commerce)
 - Financial Crimes Enforcement Network (FinCen – Treasury)
 - Kleptocracy Asset Recovery Rewards Program (reward payments for information leading to seizure, restraint, or forfeiture of assets the Russian Federation). Individuals with information are encouraged to contact Kleptocracy_Rewards@Treasury.gov or call +1 202-622-2050.

From Russia with Sanctions: Aircraft Seizure

- Aircraft seizure (**15 CFR §T 764.2(a) – Unlicensed Reexport of aircraft to Russia**) Roman Abramovich, alleging violations of the Export Administration Regulations (EAR) involving flights of two U.S. origin aircraft to Russia without the required export licenses from BIS. These aircraft include a Boeing 787-8 Dreamliner (P4-BDL, MSN 37306), valued at approximately \$350 million, and a Gulfstream G650ER (LX-RAY, MSN 6417), valued at approximately \$60 million. Abramovich is not on the SDN List.
- As a result of the stringent export controls imposed by BIS in response to Russia's invasion of Ukraine, **a BIS license or license exception is now required for the export or reexport, including the temporary export or reexport, of most commercial and private aircraft to Russia. Furthermore, any aircraft subject to the EAR that is registered in, owned or controlled by, or under charter or lease by Russia or a national of Russia, is prohibited from using an EAR license exception for flights to Russia, regardless of whether that Russian national also has dual nationality.**

From Russia with Sanctions: Blocked Property

- Emperor Aviation, Malta (Executive Order 14024) – Malta and Russia-based aircraft management company provided transportation for Suleiman Abusaidovich Kerimov’s family. OFAC designated Kerimov pursuant to E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Russian Federation government. Emperor Aviation was designated pursuant to **E.O. 14024 for operating or having operated in the aerospace sector of the Russian Federation economy and for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of the Russian invasion of Ukraine.**
- OFAC blocked eight Emperor Aviation aircraft:
 - 9H-AMN, Bombardier BD-700-1A11 (MSN 9324)
 - 9H-ARK , Bombardier BD-700-1A10 (MSN 60011)
 - 9H-EAA, Cessna Citation XLS+ (MSN 6170)
 - 9H-MAO, Bombardier BD-700-1A10 (MSN 9223)
 - 9H-OKO, Gulfstream G650 (MSN 6356)
 - 9H-SIS, Bombardier Challenger (MSN 6050)
 - 9H-SSK, Gulfstream G650 (MSN 6195)
 - 9H-TIO, Bombardier BD-700-1A10 (MSN 9813)
- Certain transactions involving blocked entities are permissible that are ordinarily incident and necessary to the provision, exportation, or reexportation of goods, technology, or services to ensure the safety of civil aviation, provided that the aircraft is registered solely outside of the Russian Federation and the goods, technology, or services provided, exported, or reexported are for civilian aviation purposes.

From Russia with Sanctions: Other Examples

- Andrei Skoch (AS365 Dauphin, MSN 6959; Airbus A319, MSN 5445)
- Viktor Vekselberg (Airbus A319 MSN 3133)
- Aerolex Transport (EMB135, MSN 1451008)
- Linburg Industries (BAE 125 800B, MSN 258210)
- SRL Skyline Aviation (Global 6000, MSN 9576)
- See BIS Commercial List
- See OFAC Aircraft List

From Russia with Sanctions: Methods

- Grand Jury Subpoena Powers
- Specially Designated Nationals and Blocked Persons List (“SDN List”)
 - U.S. Treasury Blocks Over \$1 Billion in Suleiman Kerimov Trust
 - OFAC Administrative penalties (2022, \$43M; 2021, \$21M, 2022, \$24M)
- **BIS Entity List** and Denied Persons Lists, Temporary Denial Orders
- BIS Criminal & Administrative Penalties (15 C.F.R. Parts 730-774 (EAR) violations may be subject to both criminal (up to 20 years of imprisonment and up to \$1 million in fines per violation, or both) or administrative penalties (up to \$300,000 per violation or twice the value of the transaction, whichever is greater).
- Chilling Effect on Suppliers