



Autonomous Sanctions Amendment (Russia, Crimea and Sevastopol) Regulation 2015

Select Legislative Instrument No. 30, 2015

I, the Honourable Alex Chernov AC QC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 26 March 2015

Alex Chernov
Administrator

By His Excellency's Command

Julie Bishop
Minister for Foreign Affairs

OPC60852 - C

1 Name

This is the *Autonomous Sanctions Amendment (Russia, Crimea and Sevastopol) Regulation 2015*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Autonomous Sanctions Act 2011*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

No. 30, 2015

*Autonomous Sanctions Amendment (Russia, Crimea and Sevastopol)
Regulation 2015*

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Schedule 1—Amendments

Autonomous Sanctions Regulations 2011

1 Regulation 3

Insert:

investment service means the following services and activities:

- (a) reception and transmission of orders in relation to one or more financial instruments;
- (b) execution of orders on behalf of clients;
- (c) dealing on own account;
- (d) portfolio management;
- (e) investment advice;
- (f) either or both of the following:
 - (i) underwriting of financial instruments;
 - (ii) placing of financial instruments on a firm commitment basis;
- (g) placing of financial instruments without a firm commitment basis;
- (h) any service in relation to the admission to trading on a regulated market or trading on a multilateral trading facility.

money-market instruments means instruments, other than instruments of payment, that are normally dealt in on the money market, such as treasury bills, certificates of deposit and commercial papers.

2 Regulation 3 (definition of **sanctioned commercial activity**)

Omit “regulation 5A”, substitute “regulations 5A, 5B and 5C”.

3 Regulation 3

Insert:

tradeable securities means transferable securities, other than instruments of payment, that are negotiable on the capital market, including but not limited to the following:

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- (a) shares in companies, or securities that are equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of such shares or securities;
 - (b) bonds or other forms of securitised debt, including depositary receipts in respect of such bonds or other forms of securitised debt;
 - (c) any other securities that give the right to acquire or sell such transferable securities, or give rise to a cash settlement.

4 At the end of Part 1

Add:

3A Interpretative rule for provisions that specify both a part of a country and that country

- (1) If both part of a country, and the country, are specified in regulation 4, 4A or 5, the following rules apply:
 - (a) for regulation 4—goods are export sanctioned goods for the part of the country if they are export sanctioned goods for the country, but are not export sanctioned goods for the country merely because they are export sanctioned goods for the part;
 - (b) for regulation 4A—goods are import sanctioned goods for the part of the country if they are import sanctioned goods for the country, but are not import sanctioned goods for the country merely because they are import sanctioned goods for the part;
 - (c) for regulation 5—a service is a sanctioned service for the part of the country if it is a sanctioned service for the country, but is not a sanctioned service for the country merely because it is a sanctioned service for the part.
- (2) If more than one part of a country is specified in regulation 4, 4A or 5, the parts are to be considered separately (even if one part is located within the other), and the following rules apply:
 - (a) for regulation 4—goods are not export sanctioned goods for one part merely because they are export sanctioned goods for another part;
 - (b) for regulation 4A—goods are not import sanctioned goods for one part merely because they are import sanctioned goods for another part;

(c) for regulation 5—a service is not a sanctioned service for one part merely because it is a sanctioned service for another part.

5 Subregulations 4(1) and (2)

After “country” (wherever occurring), insert “or part of a country”.

6 Subregulation 4(2) (table heading)

Repeal the heading, substitute:

Countries or parts of countries and export sanctioned goods

7 Subregulation 4(2) (table, heading to column headed “Country”)

Repeal the heading, substitute:

Country or part of country

8 Subregulation 4(2) (before table item 2)

Insert:

1	Crimea	Items, of a kind specified by the Minister in an instrument under this regulation, relating to the creation, acquisition or development of infrastructure in one or more of the following sectors: (a) transport; (b) telecommunications; (c) energy; (d) the exploitation of oil, gas and mineral reserves in Crimea.
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9 Subregulation 4(2) (after table item 3)

Insert:

3A	Russia	(a) Arms or related matériel. (b) Items, of a kind specified by the Minister in an instrument under this regulation, suited to any of the following categories of exploration and production projects in Russia, including its Exclusive Economic Zone
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and Continental Shelf:

- (i) oil exploration and production in waters deeper than 150 metres;
 - (ii) oil exploration and production in the offshore area north of the Arctic Circle;
 - (iii) projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing (other than exploration and production through shale formations to locate or extract oil from non-shale reservoirs).
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3B	Sevastopol	<p>Items, of a kind specified by the Minister in an instrument under this regulation, relating to the creation, acquisition or development of infrastructure in one or more of the following sectors:</p> <ul style="list-style-type: none"> (a) transport; (b) telecommunications; (c) energy; (d) the exploitation of oil, gas and mineral reserves in Sevastopol.
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10 Subregulation 4(3)

After “country”, insert “or part of a country”.

11 At the end of paragraph 4A(1)(b)

Add “or part of a country”.

12 Subregulation 4A(2)

Omit all the words after “for the country”, substitute:

or part of a country mentioned in the item if:

- (a) the goods are exported from the country or part of a country;
- or
- (b) the goods originate in the country or part of a country.

13 Subregulation 4A(2) (table, before the column headings)

Insert:

Countries or parts of countries and sanctioned imports

14 Subregulation 4A(2) (table, heading to column headed “Country”)

Repeal the heading, substitute:

Country or part of country

15 Subregulation 4A(2) (before table item 1)

Insert:

1AA	Crimea	All goods
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16 Subregulation 4A(2) (after table item 1)

Insert:

1A	Russia	Arms or related matériel
1B	Sevastopol	All goods

17 Subregulation 4A(3)

After “country”, insert “or part of a country”.

18 After subregulation 4A(4)

Insert:

- (5) Subregulation (2) does not include goods originating in Crimea or Sevastopol which have been made available to the Ukrainian authorities for examination and for which compliance with the conditions conferring entitlement to preferential origin has been verified by the Ukrainian authorities.

19 After subregulation 5(1)

Insert:

- (1A) Subregulation (1) does not apply to a sanctioned supply of an export sanctioned good for Russia mentioned in paragraph (b) of the column headed “Goods” of item 3A of the table in subregulation 4(2) (certain items relating to oil).

20 After subregulation 5(2)

Insert:

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- (2A) Subregulation (2) does not apply to a sanctioned import of an import sanctioned good for Russia mentioned in the column headed “Goods” of item 1A of the table in subregulation 4A(2) (arms or related matériel).

21 Before subregulation 5(3)

Insert:

- (2B) For these Regulations, a *sanctioned service* is also the provision to a person of an investment service if it assists with, or is provided in relation to, a sanctioned commercial activity.

22 Subregulation 5(4)

After “country” (wherever occurring), insert “or part of a country”.

23 Subregulation 5(4) (table heading)

Repeal the heading, substitute:

Countries or parts of countries and activities

24 Subregulation 5(4) (table, heading to column headed “Country”)

Repeal the heading, substitute:

Country or part of country

25 Subregulation 5(4) (before table item 2)

Insert:

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| 1 | Crimea | (a) The manufacture, maintenance or use of an export sanctioned good for Crimea. |
| | | (b) Engagement in a sanctioned commercial activity for Crimea. |

26 Subregulation 5(4) (after table item 3)

Insert:

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|----|--------|---|
| 3A | Russia | (a) A military activity. |
| | | (b) The manufacture, maintenance or use of an export sanctioned good for Russia mentioned in paragraph (a) of the column headed “Goods” of item 3A of the table in subregulation 4(2) (arms |
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		or related matériel).
3B	Sevastopol	(a) The manufacture, maintenance or use of an export sanctioned good for Sevastopol. (b) Engagement in a sanctioned commercial activity for Sevastopol.

27 At the end of regulation 5

Add:

- (6) For these Regulations, a *sanctioned service* is also, for Russia, the provision to Russia, or to a person, entity or body for use in Russia, of a service mentioned in subregulation (7) that is necessary for any of the following categories of exploration and production projects in Russia, including its Exclusive Economic Zone and Continental Shelf:
- (a) oil exploration and production in waters deeper than 150 metres;
 - (b) oil exploration and production in the offshore area north of the Arctic Circle;
 - (c) projects that have the potential to produce oil from resources located in shale formations by way of hydraulic fracturing (other than exploration and production through shale formations to locate or extract oil from non-shale reservoirs).
- (7) For subregulation (6), the services are the following:
- (a) drilling;
 - (b) well-testing;
 - (c) logging and completion services;
 - (d) supply of specialised floating vessels.

28 Regulation 5A (heading)

Repeal the heading, substitute:

5A Sanctioned commercial activity—Iran and Syria

29 After regulation 5A

Insert:

5B Sanctioned commercial activity—Russia

- (1) For these Regulations, *sanctioned commercial activity* also means the direct or indirect purchase or sale of, or any other dealing with, bonds, equity, transferable securities, money market instruments or other similar financial instruments, if the financial instrument:
 - (a) is issued, after the commencement of this subregulation, by an entity specified in subregulation (6); and
 - (b) has a maturity period specified by the Minister in an instrument under this regulation for the financial instrument and the entity.
- (2) Subregulation (1) does not apply to an activity in relation to tradeable securities or other financial instruments that:
 - (a) is a derivative product the value of which is linked to an underlying asset of a type mentioned in subsection (1); and
 - (b) does not involve the purchase or sale of, or any other dealing in relation to, the underlying asset.
- (3) For these Regulations, *sanctioned commercial activity* also means directly or indirectly making, or being part of any arrangement to make, loans or credit if the loan or credit:
 - (a) is made after the commencement of this subregulation, by an entity specified in subregulation (6); and
 - (b) has a maturity period specified by the Minister in an instrument under this regulation for the financial instrument and the entity.
- (4) Subregulation (3) does not apply to loans or credit that have a specific and documented objective to provide:
 - (a) financing for non-prohibited imports or exports of goods and non-financial services between Australia and Russia; or
 - (b) emergency funding to meet the solvency and liquidity criteria for legal persons:
 - (i) established in Australia; and
 - (ii) whose proprietary rights are owned for more than 50% by an entity specified by the Minister in an instrument under this regulation.
- (5) Subregulation (3) does not apply to drawdown or disbursements made under a contract concluded before the commencement of this subregulation if:

- (a) all the terms and conditions of such drawdown or disbursements:
 - (i) were agreed before the commencement of this subregulation; and
 - (ii) have not been modified on or after the commencement of this subregulation; and
 - (b) before the commencement of this subregulation, 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.
- (6) For paragraphs (1)(a) and (3)(a), the entities are the following:
- (a) a major financial institution, or other major institution that:
 - (i) is incorporated, or was established, in Russia and has an explicit mandate to promote competitiveness in the Russian economy, its diversification and the encouragement of investment; and
 - (ii) at the commencement of this subregulation, was over 50% publicly owned or controlled; and
 - (iii) is specified by the Minister in an instrument under this regulation;
 - (b) a body corporate or other entity that:
 - (i) is incorporated, or was established, in Russia; and
 - (ii) is predominantly engaged in major activities relating to the development, production, sale or export of military equipment or services; and
 - (iii) is specified by the Minister in an instrument under this regulation;
 - (c) a body corporate or other entity that:
 - (i) is incorporated, or was established, in Russia; and
 - (ii) is publicly controlled or over 50% publicly owned; and
 - (iii) is involved in the sale or transportation of crude oil or petroleum products; and
 - (iv) is specified by the Minister in an instrument under this regulation;
 - (d) a body corporate or other entity that is incorporated, or was established, outside Australia and is over 50% owned by an institution, body corporate or entity referred to in paragraph (a), (b) or (c);

(e) a body corporate or other entity acting on behalf of, or at the direction of, an institution, body corporate or entity referred to in paragraph (a), (b), (c) or (d).

(7) In this regulation:

terms and conditions of drawdowns and disbursements include provisions relating to:

- (a) the length of the repayment period for the drawdown or disbursement; and
- (b) the interest rate, or method of calculating the interest rate, for the drawdown or disbursement; and
- (c) the maximum amount for the drawdown or disbursement.

5C Sanctioned commercial activity—Crimea and Sevastopol

(1) For these Regulations, *sanctioned commercial activity* also means:

- (a) the granting by a person of any financial loan or credit; or
- (b) the establishment by a person of a joint venture;

relating to:

- (c) the creation, acquisition or development of infrastructure in any of the following sectors in Crimea or Sevastopol:
 - (i) transport;
 - (ii) telecommunications;
 - (iii) energy; or
- (d) the exploitation of oil or gas, or of mineral resources specified by the Minister in an instrument under this regulation, in Crimea or Sevastopol.

(2) For these Regulations, *sanctioned commercial activity* also means the acquisition or extension by a person of an interest in an enterprise that was established in Crimea or Sevastopol and is engaged in an activity referred to in paragraph (1)(c) or (d).