

Explanatory Statement

Issued by the Authority of the Minister for Foreign Affairs

Autonomous Sanctions Regulations 2011

Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017

The *Autonomous Sanctions Regulations 2011* (the Regulations) commenced on 15 December 2011. The purpose of the Regulations is to facilitate the conduct of Australia's relations with certain countries, and with specific entities or persons outside Australia, through the imposition of autonomous sanctions in relation to those countries, or targeting those entities or persons.

Paragraph 6 (1) (a) of the Regulations authorises the Minister for Foreign Affairs (the Minister), by legislative instrument, to designate a person or entity on the basis that the person or entity is mentioned in an item of the table in regulation 6. The purpose of such a designation is to subject the designated person or entity to targeted financial sanctions. The designated person or entity becomes the object of the prohibition in regulation 14 (which prohibits directly or indirectly making an asset available to, or for the benefit of, a designated person or entity, other than as authorised by a permit granted under regulation 18). An asset owned or controlled by a designated person or entity is a "controlled asset", subject to the prohibition in regulation 15 (which requires a person who holds a controlled asset to freeze that asset, by prohibiting that person from either using or dealing with that asset, or allowing it to be used or dealt with, or facilitating the use of or dealing with it, other than as authorised by a permit granted under regulation 18).

Paragraph 6 (1) (b) of the Regulations authorises the Minister, by legislative instrument, to declare a person for the purpose of preventing the person from travelling to, entering or remaining in Australia on the basis that the person is mentioned in an item of the table in regulation 6.

In June 2014, the Foreign Minister designated and declared 50 persons and designated 11 entities for the purpose of paragraph 6(1) of the Regulations on the basis that they were mentioned in an item of the table in regulation 6, that is: a person or entity that the Minister is satisfied is responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine.

Regulation 9 of the Regulations effectively provides that these designations and declarations would cease to have effect on the third anniversary of the day in which the designation or declaration took effect unless declared to continue to have effect. Section 3 of the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017* (the Amendment List) contains the Minister's declaration under subregulation 9(3) that the designations and declarations of the following persons that were originally designated and declared in June 2014 continue to have effect:

1. Serhiy Valeriyovich AKSYONOV
2. Oleg Yevgenyich BELAVANTSEV
3. Deniz Valentinovich BEREZOVSKIY
4. Evgeni Viktorovich BUSHMIN
5. Aleksei Mikhailovich CHALIY
6. Vladimir Michailovich DZHABAROV
7. Andrei Alexandrovich FURSENKO
8. Aleksandr Viktorovich GALKIN
9. Igor Vsevolodovich GIRKIN; also known as Igor STRELKOV
10. Sergey Yur'yevich GLAZYEV
11. Alexei Alexeyevich GROMOV
12. Sergei Borisovich IVANOV
13. Andrei Aleksandrovich KLISHAS
14. Volodomyr Andriyovych KONSTANTYNOV
15. Yuri Valentinovich KOVALCHUK
16. Olga Fedorovna KOVITIDI
17. Dmitry Nikolayevich KOZAK
18. Vladimir Igorevich KOZHIN
19. Mikhail Grigorevich MALYSHEV
20. Valentina Ivanovna MATVIYENKO
21. Viktor Volodymyrovich MEDVEDCHUK
22. Valery Kirillovich MEDVEDEV
23. Sergei Mikhailovich MIRONOV
24. Yelena Borisovna MIZULINA
25. Sergey Yevgenyevich NARYSHKIN
26. Viktor Alekseevic OZEROV
27. Vyacheslav Vladimirovich PONOMARYOV
28. Denis Vladimirovich PUSHILIN
29. Aleksei PUSHKOV
30. Dmitry Olegovich ROGOZIN
31. Arkady Borisovich ROTENBERG
32. Boris Borisovich ROTENBERG
33. Nikolai Ivanovich RYZHKOV
34. Oleg Genrikhovich SAVELYEV
35. Anatoliy Alekseevich SIDOROV
36. Leonid Eduardovich SLUTSKIY
37. Vladislav Yur'yevich SURKOV
38. Rustam Ilmirovich TEMIRGALIEV
39. Gennady Nikolayevich TIMCHENKO
40. Aleksandr Borisovich TOTOONOV
41. Sergey Pavlovyeh TSEKOV
42. Aleksandr Viktorovich VITKO
43. Vyacheslav VOLODIN
44. Vladimir Ivanovich YAKUNIN
45. Viktor Fedorovych YANUKOVYCH
46. Sergei Vladimirovich ZHELEZNYAK
47. Pyotr Anatoliyovych ZIMA

Section 4 of the Amendment List contains the Minister's declaration under subregulation 9(3) that the designations of the following entities that were originally designated in June 2014 continue to have effect:

1. Bank Rossiya
2. Invest Capital Bank
3. SMP Bank
4. Stroygazmontazh; also known as SGM Group
5. Aquanika; also known as Russkoye Vremya LLC
6. Avia Group LLC
7. Avia Group Nord LLC
8. Stroytransgaz Group
9. The Volga Group
10. Transoil
11. Chernomorneftegaz; also known as Crimean Oil and Gas Company

The following persons listed in Schedule 3 of the Amendment List are designated by the Minister for the purposes of paragraph 6(1)(a) of the Regulations and declared by the Minister for the purposes of paragraph 6(1)(b) of the Regulations on the basis that the person is mentioned in item 9 of the table in regulation 6; that is, "a person or entity that the Minister is satisfied is responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine":

1. Vladimir USTINOV
2. Dmitry OVSYANNIKOV
3. Colonel-General Alexander DVORNIKOV
4. Colonel-General Andrei KARTAPOLOV

Section 7 of the Amendment List contains the Minister's revocation of the designations and declarations of the following deceased persons that were originally designated and declared in June 2014:

1. Igor Dmitrievich SERGUN
2. Oleg Evgenevich PANTALEEV
3. Yuriy Gennadyevich ZHEREBTSOV

The Amendment List effectively renews the targeted financial sanctions and/or travel restrictions that would otherwise lapse on persons and entities that are responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine. The Amendment List effectively applies targeted financial sanctions and travel restrictions to a further four persons that are responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine.

The legal framework for the imposition of autonomous sanctions by Australia, of which the Regulations and the Amendment List are part, has been the subject of extensive consultation with governmental and non-governmental stakeholders since May 2010.

The Department of Foreign Affairs and Trade (the Department) conducts ongoing public consultations, including with the Australian financial services sector and broader business community, in relation to these types of measures.

The Department undertook public consultation from 27 April to 17 May through its website seeking submissions from interested parties and to afford natural justice to those persons and entities whose designations or declarations were to lapse and are being reviewed. No submissions were received in response to these public consultations.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017

The *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017* (the Amendment List) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

A person or entity subject to designation or declaration under regulation 6 of the Regulations may apply to the Minister for Foreign Affairs for the revocation of those decisions (regulation 11 of the Regulations). Decisions under both regulations 6 and 11 of the Regulations are judicially reviewable.

The targeted financial sanctions imposed on persons and entities designated under paragraph 6 (1) (a) of the Regulations do not affect the title to any asset owned or controlled by the designated person or entity. The Minister may grant a permit authorising a use of, or dealing with, an asset that is owned or controlled by a designated person or entity, or authorising another person to provide assets to the designated person or entity, to meet basic expenses, including for foodstuffs, rent or mortgage, medicines or medical treatment, taxes, insurance premiums, public utility charges, reasonable professional fees, reimbursement of expenses associated with the provision of legal services, or fees or service charges that are in accordance with a law in force in Australia for the routine holding or maintenance of frozen assets (regulations 18 and 20 of the Regulations).

Similarly, the Minister may grant a permit if required, to satisfy any pre-existing judicial, administrative or arbitral lien or judgement awarded to another (non-designated) person or entity, as well as to allow payments required under contracts, agreements or obligations made before the date on which the designation became effective.

The Department of Foreign Affairs and Trade (DFAT) undertook public consultation through its website from 27 April to 17 May seeking submissions from interested parties and to afford natural justice to those persons and entities whose designations or declarations were to lapse and were being reviewed. No submissions were received.

Regulation 19 authorises the Minister to waive the operation of a declaration under regulation 6 so as to allow the person to travel to, enter or remain in Australia, either on the grounds that it would be in the national interest or on humanitarian grounds.