

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 (No 2)

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 September 2014, the Foreign Minister designated and declared 63 persons and designated 21 entities for the purpose of subregulation 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 4 of the *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017 (No 2)* (the Amendment List) contains the Minister's declaration under subregulation 9(3) of the Regulations that the designations and declarations of the following persons that were originally designated and declared in September 2014 continue to have effect:

- 1.Sergey BESEDA
- 2.Alexander Vasilyevich BORTNIKOV
- 3.Mikhail Vladimiorich DEGTYAREV
- 4.Mikhail Yefimovich FRADKOV
- 5.Valery Vasilevich GERASIMOV
- 6.Boris Vyacheslavoich GRYZLOV
- 7.Ramzan Akhmadovitch KADYROV
- 8.Sergei Ivanovich MENYAILO
- 9.Sergei Ivanovich NEVEROV
- 10.Rashid Gumorovich NURGALIEV
- 11.Nikolai Platonovich PATRUSHEV
- 12.Vladimir Nikolavich PLIGIN
- 13.Nikolay Terentievich SHAMALOV
- 14.Vladimir SHAMANOV
- 15.Sergey ABISOV
- 16.Vladimir ANTYUFEYEV (also known as Vladimir Shevtsov)
- 17.Marar BASHIROV
- 18.Fedir Dmytrovych BEREZIN
- 19.Igor Mykolaiovych BEZLER
- 20.Aleksandr Yurevich BORODAI
- 21.Pavel Yurevich GUBAREV
- 22.Ekaterina GUBAREVA
- 23.Yurij IVAKIN
- 24.Petr Grigorievich JAROSH
- 25.Igor KAKIDZYANOV
- 26.Alexandr Aleksandrovich KALYUSSKY
- 27.Aleksey KARYAKIN
- 28.Valery Vladimirovich KAUROV
- 29.Alexander KHODAKOVSKY
- 30.Alexander KHRYAKOV
- 31.Nikolay KOZITSYN
- 32.Oleg Grigorievich KOZYURA
- 33.Boris LITVINOV
- 34.Roman LYAGIN
- 35.Konstantin Valerevich MALOFEEV
- 36.Aleksandr MALYKHIN
- 37.Vasyl NIKITIN
- 38.Igor PLOTNITSKY
- 39.Natalia Vladimirovna POKLONSKAYA
- 40.Andriy PURGIN
- 41.Igor Sergeievich SHEVCHENKO
- 42.Oksana TCHIGRINA
- 43.Alexander Nikolayevich TKACHYOV
- 44.Oleg TSARIOV
- 45.Serhii Anatoliyovych ZDRILIUK
- 46.Victor Yuriiiovych ANOSOV
- 47.Viacheslav Anatoliiovych APRAKSIMOV
- 48.Ruslan Yunirovish ILKAEV
- 49.Victor Petrovich IVANOV
- 50.Alexander KARAMAN
- 51.Valery Vladimirovich KULIKOV
- 52.Valerii Kostiantynovych MUSIIENKO
- 53.Alexander Mihailovich NOSATOV
- 54.German PROKOPIV
- 55.Yurii Oleksandrovych PROTSENKO
- 56.Sergey Gennadevich TSYPLAKOV
- 57.Lt. Gen. Igor TURCHENYUK
- 58.Oleh Anatoliiovych VASIN
- 59.Aleksandr ZAKHARCHENKO
- 60.Vladimir ZHIRINOVSKY

Section 5 of the Amendment List contains the Minister's declaration under subregulation 9 (3) of the Regulations that the designations of the following entities that were originally designated in September 2014 continue to have effect:

- 1.Almaz-Antey
- 2.Army of the Southeast
- 3.Azov Distillery Plant
- 4.Donbass People's Militia
- 5.Factory of Sparkling Wine Novy Svet – State Enterprise
- 6.Federal State of Novorossiia
- 7.Feodosiya Enterprise
- 8.International Union of Public Associations 'Great Don Army'
- 9.Kerch Ferry – State Ferry Enterprise
- 10.Kerch Commercial Sea Port – State Enterprise
- 11.Luhansk Guard
- 12.Magarach of the National Institute of Wine – State Enterprise (also known as All-Russia National Research Institute of Wine Growing and Making Magarach)
- 13.National Association of Producers "Massandra" – State Concern
- 14.People's Republic of Donetsk
- 15.People's Republic of Luhansk
- 16.Resort 'Nizhnyaya Oreanda'
- 17.Russian National Commercial Bank
- 18.Sevastopol Commercial Seaport (also known as Sevastopol Sea Port)
- 19.SOBOL
- 20.Universal-Avia – State Enterprise
- 21.Vostok Battalion

Section 6 of the Amendment List effectively provides that 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 of the Regulations; 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”:

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| 1. Georgiy L'vovich MURADOV | 22. Evgeny Eduardovich MIKHAYLOV |
| 2. Mikhail Sergeyevich SHEREMET | 23. Aleksandr Igorevich KOFMAN |
| 3. Oleg Anatolievich KAMSHILOV | 24. Evgeny Vyacheslavovich ORLOV |
| 4. Konstantin Mikhailovich BAKHAREV | 25. Yuri Viktorovich SIVOKONENKO |
| 5. Ruslan Ismailovich BALBEK | 26. Petr Alekseyovich SAVCHENKO |
| 6. Dmitry Anatolievich BELIK | 27. Sergey Ivanovich KOZLOV |
| 7. Andrey Dmitrievich KOZENKO | 28. Dmitry Aleksandrovich SEMYONOV |
| 8. Svetlana Borisovna SAVCHENKO | 29. Oleg Evgenevich BUGROV |
| 9. Pavel Valentinovich SHPEROV | 30. Alexandr Vasilievich SHUBIN |
| 10. Ravil Zakariyevich KHALIKOV | 31. Igor Aleksandrovich KORNET |
| 11. Natalya Yurevna NIKONOROVA | 32. Zaur Raufovich ISMAILOV |
| 12. Vladimir Petrovich KONONOV | 33. Evgeny Vladimirovich MANUILOV |
| 13. Eduard Aleksandrovich BASURIN | 34. Sergey Yurievich KOZYAKOV |
| 14. Oleg Vladimirovich BEREZA | 35. Olga Igoreva BESEDINA |
| 15. Ekaterina FILIPPOVA | 36. Lesya Mikhailovna LAPTEVA |
| 16. Andrey Yurevich PINCHUK | 37. Larisa Leonidovna AIRAPETYAN |
| 17. Alexander Yurievich TIMOFEYEV | 38. Vladislav Nykolayevich DEYNEGO |
| 18. Igor Yuriyovich ANTIPOV | 39. Andrey Nikolaevich SERDYUKOV |
| 19. Viktor Vyacheslavovich YATSENKO | 40. Miroslav Vladimirovich RUDENKO |
| 20. Igor Vladimirovich KOSTENOK | 41. Sergey Yurevich IGNATOV |
| 21. Andrey Nikolaevich RODKIN | 42. Alexey Yurevich MILCHAKOV (also known as Serbian FRITZ) |

Section 7 of the Amendment List effectively provides that the following entities listed in Schedule 4 of the Amendment List are designated by the Minister for the purposes of paragraph 6 (1) (a) of the Regulations on the basis that the entity is mentioned in item 9 of the table in regulation 6 of the Regulations; 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”:

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| 1. Oplot Battalion | (also known as Lugansk Economic Union) |
| 2. Cossack National Guard | |
| 3. Kalmius Battalion | 11. Mir Luganshchine (also known as Peace to Lugansk) |
| 4. Prizrak Brigade | 12. Narodniy Soyuz (People's Union) |
| 5. Smert (Death) Battalion | 13. Public Movement ‘Novorossiya’ |
| 6. Somali Battalion | 14. Svobodniy Donbass (also known as Free Donbass) |
| 7. Sparta Battalion | 15. Crimean Sea Ports |
| 8. Zarya Battalion | 16. People’s Militia of the Luhansk People’s Republic |
| 9. Donetsk Republic (Public Organisation) | |
| 10. Luganskiy Ekonomicheskiiy Soyuz | |

Section 8 of the Amendment List contains the Minister's revocation under subregulations 10 (1) of the Regulations of the designations and declarations of the following persons who were designated and declared in September 2014, but are now deceased:

1. Ludmila Ivanovna SHVETSOVA
2. Valeriy BOLOTOV
3. Oleksiy MOZGOVYI

The Amendment List effectively renews the targeted financial sanctions and/or travel bans that would otherwise lapse in relation to persons and entities that are responsible for, or complicit in, the threat to the sovereignty and territorial integrity of Ukraine (except those persons who are now deceased). The Amendment List also amends the supporting information for a number of persons and entities for which targeted financial sanctions and/or travel bans are being renewed including, for example, the addition of aliases, dates of birth and updates to the additional information of some persons and entities.

The Amendment List also effectively applies targeted financial sanctions and travel bans to a further 42 persons and targeted financial sanctions against a further 16 entities 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 14 July to 2 August 2017 through its website seeking submissions from interested parties and to afford natural justice to those persons and entities whose designations and/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 (No 2)

The *Autonomous Sanctions (Designated Persons and Entities and Declared Persons – Ukraine) Amendment List 2017 (No 2)* (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.

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.

The Department of Foreign Affairs and Trade (DFAT) undertook public consultation through its website from 14 July to 2 August 2017 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.