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.Marat 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 Yuriiovych 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 Novorossiya

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”:

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

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

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 Compatability 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.