



# UK SANCTIONS STATUTORY INSTRUMENTS REVIEW

This review of the UK's autonomous sanctions regimes has been prepared for general information purposes and in order to illustrate the potential impact of the new UK sanctions provisions. This review does not constitute legal advice and should not be relied on by UK Finance members or any other parties. The impact and applicability of the new autonomous sanctions regimes will differ from firm to firm. It is important, therefore, for all parties to consider and assess the impact of the new sanctions regimes individually and, if appropriate, with the benefit of their own legal advice which takes into account their relevant activities.

# Document Version Control

Version	Issue Date	Expiry Date	Notes
1.40			<ul style="list-style-type: none"> <li>Unauthorised Drilling in the Eastern Mediterranean review added. (<a href="#">SI 2020/1474</a>)</li> <li>Legislation table updated.</li> </ul>
1.30	17 <sup>th</sup> February 2021		<ul style="list-style-type: none"> <li>Misappropriation review added (<a href="#">SI 2020/1468</a>)</li> <li>Legislation table updated</li> <li>Partner logos added to the authors page.</li> </ul>
1.20	25 <sup>th</sup> January 2021		<ul style="list-style-type: none"> <li>Libya review added (<a href="#">SI 2020/1665</a>)</li> <li>Document control moved to the front of the document.</li> <li>Findings summary added.</li> <li>Expiry date removed.</li> <li>Legislation table with links added to the appendix</li> </ul>
1.10	1 <sup>st</sup> December 2020	7 <sup>th</sup> January 2021	<ul style="list-style-type: none"> <li>Burma/Myanmar review added. (<a href="#">SI 2019/136</a>)</li> <li>Syria UN cultural property review added. (<a href="#">SI 2020/1233</a>)</li> <li>Yemen (Sanctions) (EU Exit) (No.2) Regulations (<a href="#">SI 2020/1278</a>) review replaces the revoked Yemen (Sanctions) (EU Exit) Regulations 2020/733</li> <li>Formatting corrections.</li> <li>Minor text changes and a cross regime review to ensure consistency of language and improve readability.</li> </ul>
1.00	5 <sup>th</sup> November 2020	30 <sup>th</sup> November 2020	<ul style="list-style-type: none"> <li>First issue.</li> <li>Initial review of UK Sanctions Sis available as at September 15<sup>th</sup> 2020.</li> </ul>

## INTRODUCTION

Three sources have traditionally driven sanctions legislation in the United Kingdom. The UK currently applies and implements sanctions originating from the United Nations; sanctions originating from the European Union, commonly referred to as restrictive measures; as well as its own domestic sanctions.

European sanctions have been implemented through regulations made under the European Communities Act 1972<sup>1</sup>. As the Transition Period comes to an end on 31st December 11:00pm GMT as agreed in the Withdrawal Agreement<sup>2</sup>, EU legislation and regulations will cease to have effect in the United Kingdom.

In 2018, the UK passed the Sanctions and Anti Money Laundering Act<sup>3</sup> which allows ministers to make sanctions regulations in application of UN sanctions or any other international obligation, or for a range of purposes<sup>4</sup> (including furthering the prevention of terrorism, furthering a foreign policy objective, in the interest of international peace and security, etc.). Under this Act, a number of statutory instruments have been laid before parliament in the past few months. Most will come into force at the end of the Transition Period, with the exception of the Global Human Rights Sanctions Regulations 2020<sup>5</sup>, the first UK autonomous sanctions regime, which came into force on 6th July 2020.

## OBJECTIVES

This paper aims to provide a helpful resource for financial institutions and other firms with a responsibility to comply with UK sanctions legislation either in the UK or overseas.

## SCOPE

This paper covers statutory instruments passed in application of SAMLA and replacing regulations made under the European Communities Act 1972, as well as new autonomous regimes such as the Global Human Rights Sanctions Regulations. This paper should be read in correlation with SAMLA provisions and relevant definitions.

This review focuses on financial sanctions and related trade sanctions that could impact financial institutions and firms in international trade. It does not provide an analysis of other types of sanctions such as immigration.

The paper studies all sanctions regulations, both country and "thematic" (e.g. Global Human Rights Sanctions) sanctions regimes. The tables that follow illustrate a range of areas in which members have indicated they face difficulty preparing for the end of the Transition period. The tables are not comprehensive as there are still UK Sanctions Statutory Instruments (SIs) to be published. Many firms are still working through their post-transition period sanctions obligations, and it is likely that other issues will arise as their analysis of the legislative and regulatory framework is finalised.

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<sup>1</sup> European Communities Act 1972 (<https://www.legislation.gov.uk/ukpga/1972/68/contents>)

<sup>2</sup> <https://www.gov.uk/government/publications/new-withdrawal-agreement-and-political-declaration>

<sup>3</sup> Sanctions and Anti-Money Laundering Act 2018 (<https://www.legislation.gov.uk/ukpga/2018/13/contents/enacted>)

<sup>4</sup> Ibid., see Chapter 1, Section 1.

<sup>5</sup> The Global Human Rights Sanctions Regulations 2020 (<https://www.legislation.gov.uk/uksi/2020/680/contents/made>)

The issues are divided into the following categories:

- a) Areas where existing EU-derived Sanctions requirements drop away and are not carried through to the equivalent UK autonomous SI.
- b) Areas where the UK autonomous SI brings in new Sanctions requirements not present in the equivalent EU-derived SI.
- c) Areas where the spirit of the requirement remains, but the wording or language changes and causes a different opinion or obligation to arise.
- d) UK autonomous Sanctions SIs that use a different interpretation or language for a provision, causing inconsistency in the total UK Sanctions SI framework

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# High level review of the UK Sanctions Statutory Instruments review.

## 1. Finance: Asset-freeze in relation to designated persons (7)

The SI provides that funds or economic resources are to be "treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person"

The above prohibition is categorised as having a "Potentially High Impact".

## 2. Finance: Making funds available to designated persons (4)

The SI provides that economic resources/funds are made available indirectly to a designated person if made "available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person".

The above prohibition is categorised as having a "Potentially High Impact". The reasoning behind the prohibition being labelled as having a "Potentially High Impact" relates to the fact that the new prohibition is more restrictive than previous non-binding guidance by the EU. As is apparent below, certain SIs have "economic resources" and "funds" grouped together into the same prohibition whereas others have kept them separate.

## 3. Finance: Meaning of "owned or controlled directly or indirectly"

The SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "owned or controlled directly or indirectly" by another person if either of two conditions are met.

(1) In this Part, a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).

(2) The first condition is that P—

- (a) holds directly or indirectly more than 50% of the shares in C,
- (b) holds directly or indirectly more than 50% of the voting rights in C, or
- (c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.

(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).

(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.

The above prohibition is categorised as having a "Potentially High Impact". The reasoning behind the prohibition being labelled a "Potentially High Impact" relates to the fact that the new provision extends and replaces non-binding guidance previously provided by the EU.

Additionally, there appears to be an inconsistency in some SIs including Sch. 1 in the SI reference and others not mentioning this.

#### **4. Exceptions and Licences: Finance: exceptions from prohibitions**

The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted

The above change is categorised as having a “Medium Impact”.

#### **5. Information and Records: Finance: reporting obligations (5), (7).**

The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with interest or other earnings due on the account, (ii) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or (iii) with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned. The last two notification requirements have been deleted from the SI.

The above change is categorised as having a “Medium Impact” because it “is unlikely to have a material impact on the obligations of financial institutions”.

#### **6. Finance: Asset-freeze in relation to designated persons (6)**

For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the SI includes a new provision stating that funds or economic resources are "owned, held or controlled" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.

The above new provision is categorised as having a “Low Impact” although the SI casts a wider net on the meaning of "owned, held or controlled".

#### **7. Trade: Interpretation of expressions used in this Part (3)**

The SI's definition of "brokering services" is wider than in the EU Regulation

Under the SI, it includes:

Any services to secure, or otherwise in relation to, an arrangement, including (but not limited to):

- a) the selection or introduction of persons as parties or potential parties to the arrangement,
- b) the negotiation of the arrangement,
- c) the facilitation of anything that enables the arrangement to be entered into; and
- d) the provision of any assistance that in any way promotes or facilitates the arrangement.

The categorisation is given as a “Potentially High Impact” because it may affect financial institutions to the extent that they engage in any brokering activities related to the substantive prohibitions.

#### **8. Trade: Enabling or facilitating the conduct of armed hostilities**

New restrictions are imposed in the SI concerning enabling or facilitating the conduct of armed hostilities, including a specific prohibition on directly or indirectly providing financial services or funds to or for the benefit of a designated person where such provision enables or facilitates the conduct of armed hostilities.

The change is categorised as having a “Potentially Medium Impact” because it is likely to necessitate additional due diligence.

# The Afghanistan (Sanctions) (EU Exit) Regulations 2020.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 8(1)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Afghanistan (Asset-Freezing) Regulations 2011 (the "EU SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new Afghanistan (Sanctions) (EU Exit) Regulations 2020 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 8(5)(b)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 8(6)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised of funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 8(7)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person <b>if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</b></i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 9(4)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on	The Afghanistan	The Afghanistan	(c)	<b>Low Impact</b>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2020, Reg. 10(4)(b)	(Asset-Freezing) Regulations 2011, Reg. 5(2)(b)		<p>For the purposes of the prohibition on making funds available to any person for the benefit of a designated person, the EU SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 11(4)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<b><i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i></b>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 12(4)(b)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 7(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to any person for the benefit of a designated person, the EU SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Ownership and control provisions	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>In this Part, a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 25(1)-(2)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 8 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 25(3)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i> , as well as the prohibitions on making funds available to or for the benefit of a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 25(5)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 8(1)(b)	(c)	<b>Low Impact</b>  The EU SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.  The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 25(6)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 8	(c)	<b>Low Impact</b>  The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:  <i>(1) The prohibitions in regulations 8 to 10 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</p> <p>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</p> <p>(c) accounts A and B are held or controlled (directly or indirectly) by P.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 28(2)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 9	(b), (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts in relation to a designated person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU SI.</p> <p>This provision should be contrasted with regulation 34(2) of the Sudan (Sanctions) (EU Exit) Regulations 2020. Whilst the provisions are similar, in the new Sudanese Regulations the phrase "<i>by a particular person</i>" has been added. It should further be noted that the grounds for granting a licence differ.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 28(4)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>
Treasury Licences	The Afghanistan	The Afghanistan	(c)	<b>Low Impact</b>

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	(Sanctions) (EU Exit) Regulations 2020, Reg. 29(1)	(Asset-Freezing) Regulations 2011, Reg. 9(5)		<p>Under the EU SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 30(5)	The Afghanistan (Asset-Freezing) Regulations 2011, Reg. 8(3)	(c)	<p><b>Low Impact</b></p> <p>The EU SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with funds transferred to the account.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 25(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with regulation 25(6).</p>
Trade Controls	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 15-18	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains express restrictions on the export of military goods to a designated person, and the supply or delivery of military goods from a third country to a designated person. There is also a restriction on making military goods or technology available or transferring military technology to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as similar restrictions are currently contained in the Export Control Order 2008</p>
Trade Controls	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 19	The Export Control (Al-Qaida and Taliban	(c)	<p><b>Low Impact</b></p> <p>The Export Control (Al-Qaida and Taliban Sanctions) Regulations 2011 (the "EU Export Control SI") prohibits providing technical advice, assistance or training related to military activities, and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Sanctions) Regulations 2011, Reg. 4 and 5		<p>technical assistance related to goods and technology listed in the Common Military List of the European Union, to designated persons. There is a further prohibition on participating, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote these prohibited transactions.</p> <p>The UK SI similarly prohibits a person from directly or indirectly providing technical assistance relating to military goods or military technology to a designated person. The UK SI does not contain a requirement on the prosecution to establish intent. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance was provided was a designated person. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 24(2)).</p>
Trade Controls	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 20	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains express restrictions on the provision of "<i>financial services and funds</i>" relating to military goods and military technology as follows:</p> <p>(1) <i>A person must not directly or indirectly provide financial services to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement whose object or effect is—</i></p> <p>(a) <i>the export of military goods,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available to a person,</i></p> <p>(d) <i>the transfer of military technology, or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology.</i></p> <p>(2) <i>A person must not directly or indirectly make funds available to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement mentioned in paragraph (1).</i></p> <p>(3) <i>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—</i></p> <p>(a) <i>the export of military goods to, or for the benefit of a designated person,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods to, or for the benefit of, a designated person,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available to, or for the benefit of, a designated person —</i></p> <p>(d) <i>the transfer of military technology to, or for the benefit of, a designated person —</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.</i></p> <p>The UK SI does not contain a requirement on the prosecution to establish intent. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 24(2)).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 21	-	(b)	<p><b>High Impact</b></p> <p>New restrictions are imposed in the UK SI concerning the provision of "<i>brokering services</i>" in relation to arrangements concerning the export, supply, delivery and transfer of military goods and technology involving designated persons</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Afghanistan (Sanctions) (EU Exit) Regulations 2020, Reg. 22(1)	-	(b)	<p><b>Medium Impact</b></p> <p>New restrictions are imposed in the UK SI concerning enabling or facilitating the conduct of armed hostilities, including a specific prohibition on directly or indirectly providing financial services or funds to or for the benefit of a designated person where such provision enables or facilitates the conduct of armed hostilities.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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# The Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
–	Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020/608	Council Decision 2011/173/CFSP	(b)	<p><b>Low Impact</b></p> <p>There are no current EU Council regulations or UK implementing regulations in respect of the EU's Bosnia and Herzegovina sanctions regime which is contained in Council Decision 2011/173/CFSP (the <b>EU Bosnia Decision</b>). As the EU Bosnia Decision is binding on the EU Member States, as well as the UK until the end of the Brexit-related transition period, but not on private actors, the Bosnia and Herzegovina (Sanctions) (EU Exit) Regulations 2020/608 is an entirely new regime from a UK domestic law perspective. However, generally speaking, the language of the UK Bosnia SI reflects the equivalent provisions under other new UK regulations made under SAMLA, except in respect of those changes that are necessary as between the regimes, e.g. the purpose of the regime and the activities being targeted by sanctions.</p>

# The Burma (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Power to designate	The Burma (Sanctions) (EU Exit) Regulations 2019 – Regs 5 to 6, Regs 8 and 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out specific designation criteria at Regulation 5 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2018 EU SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2019 UK SI.</p>
Ownership and control provisions	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 7		(c)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "owned or controlled directly or indirectly" by another person if either of two conditions are met.</p> <p>(1) A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</p> <p>(2) The first condition is that P—</p> <p>(a) holds directly or indirectly more than 50% of the shares in C,</p> <p>(b) holds directly or indirectly more than 50% of the voting rights in C, or</p> <p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2019 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
Asset freezes in relation to designated persons	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 11(5)(b)	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2018 EU SI previously defined the phrase "<i>deal with</i>" as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition is extended in the 2019 UK SI to add "<i>(whether by pledging them as security or otherwise)</i>".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government in relation to this additional wording.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freezes in relation to designated persons	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 11(6)	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 3	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to: (i) funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freezes in relation to designated persons	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 11(7)	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 3	(b)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This extends the scope of the wording in the 2018 EU SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Making funds and economic resources available to designated persons	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 12 and Reg 14	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 4 and Reg 6	(c)	<p><b>High Impact</b></p> <p>The 2018 EU SI states that “a person (“P”) must not make funds/economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds/economic resources so available”. In relation to economic resources it is a further requirement that the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.</p> <p>The 2019 UK SI explicitly states making funds/economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2019 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts.<sup>6</sup> The 2019 UK SI does not include a rebuttable presumption.</p>
Trade Controls	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg. 28	-	(b)	<p><b>High Impact</b></p> <p>New restrictions are imposed in the UK SI concerning the provision of “<i>brokering services</i>” in relation to activity relating to restricted goods and restricted technology.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 33(1)	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2019 UK SI sets out the following new exception:</p>

<sup>6</sup><https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf> para. 66

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <ul style="list-style-type: none"> <li>(a) <i>is held by P, and</i></li> <li>(b) <i>is not held jointly with the designated person.</i></li> </ul> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <ul style="list-style-type: none"> <li>(a) <i>is not the designated person, and</i></li> <li>(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></li> </ul> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 33(6)	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(3) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <ul style="list-style-type: none"> <li>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></li> <li>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></li> <li>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Exceptions	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 34	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere.</p> <p>This is unlikely to have an impact on financial institutions.</p>
Credits to frozen accounts	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 33	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 8 and Schedule	(a), (b) and (c)	<p><b>Medium impact</b></p> <p>Both the 2018 EU SI and the 2019 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p> <ul style="list-style-type: none"> <li>- in the 2018 EU SI the exceptions applied to “a person”, whereas in the 2019 UK SI the exceptions also apply to “relevant institutions”, which is defined as a person that has permission under Part 4A of the Financial services and Markets Act 2000 (permission to carry on regulated activity);</li> <li>- and</li> <li>- the exception under the 2018 EU SI which permitted a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted and this exception is not present in the 2019 UK SI;</li> </ul> <p>Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Treasury licences	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 35 (1)-(2), 38, Schedule 4	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 9	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 4 of the 2019 UK SI. Similar restrictions did not apply expressly under the 2018 EU SI.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 37 (4) – (6)	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 9	(b)	<p><b>Low Impact</b></p> <p>Under the 2018 EU SI the Treasury may vary or revoke a licence at any time. The new 2019 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>
Treasury licences	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 38	The Burma (European Union Financial Sanctions) Regulations 2018	(c)	<p><b>Low Impact</b></p> <p>Under the 2018 EU SI, a person commits an offence if they “<i>knowingly or recklessly provides information that is false in a material respect, or provides or produces a document that is not what it purports to be.</i>” The 2019 UK SI adds that this is applicable in the event that the licence</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		– Reg 9 (5)		is sought “ <i>whether for P or anyone else</i> ”.  This change is unlikely to have a material impact on the obligations of financial institutions.
Reporting obligations	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 41 and 42	The Burma (European Union Financial Sanctions) Regulations 2018 – Reg 15 and Schedule	(c)	<b>Low Impact</b>  The 2018 EU SI imposed reporting obligations on “ <i>relevant institutions</i> ” or “ <i>relevant business or profession</i> ”. In the 2019 UK SI this has been replaced with “ <i>relevant firm</i> ”. Regulation 42 in the 2019 UK SI clearly defines what a “ <i>relevant firm</i> ” is, extending the scope of the entities concerned by the information and reporting obligations.  This change is unlikely to have a material impact on the obligations of financial institutions.
Reporting obligations	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 41(4)	The Burma (European Union Financial Sanctions) Regulations 2018 – Schedule, Reg 1 (4)	(c)	<b>Low Impact</b>  The 2018 EU SI required relevant institutions which had a customer who was a designated person to inform the treasury of the “ <i>nature and amount or quantity of any funds or economic resources held by it for the customer</i> ”. The 2019 UK SI adds “ <i>at the time when it first had the knowledge or suspicion</i> ” to this existing obligation, thereby adding an additional element to the reporting obligation.  This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury and trade licences	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 41(4)	The Burma (European Union Financial Sanctions) Regulations 2018,	(c)	<b>Medium Impact</b>  The EU Burma Financial Sanctions SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or

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		Regulation 8(3)		with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the UK. Under the UK Burma SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with Regulation 33(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Regulation 33(6).
Disclosure of information	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 49	The Burma (European Union Financial Sanctions) Regulations 2018 – Schedule	(b)	<p><b>Medium Impact</b></p> <p>Both the 2018 EU SI and the 2019 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2019 UK SI, including:</p> <ul style="list-style-type: none"> <li>- The 2018 EU SI authorised the disclosure of information by the Treasury, whereas the 2019 UK SI authorises the disclosure of information by the Treasury <i>or the Secretary of State</i>;</li> <li>- Both the 2018 EU SI and the 2019 UK SI permit disclosure to “any other regulatory body”, however, the 2018 EU SI stated “including those of other Member States”, whereas the 2019 UK SI is broader and states “whether or not in the United Kingdom”;</li> <li>- Both the 2018 EU SI and the 2019 UK SI permit disclosure to other Governments, however, the 2018 EU SI stated “the Government of a Member State” whereas the 2019 UK SI is broader and states “the Government of any country”;</li> <li>- Both the 2018 EU SI and the 2019 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2019 UK SI also includes the European External Action Service; and</li> <li>- The 2019 UK SI also has a new category for disclosure which states that disclosure can be made to “<i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i>”.</li> </ul>
Consent to prosecute	-	The Burma (European Union	(a)	<p><b>Low Impact</b></p> <p>The 2018 EU SI stated that proceedings for offences under the regulations (other than for</p>

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		Financial Sanctions) Regulations 2018 – Reg 14		summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2019 UK SI.
Application of prohibitions and requirement outside the United Kingdom	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg (3)(2) & (5)	The Export Control (Burma Sanctions) (No2) Order 2018– Reg 2	(b)	<p><b>Low impact</b></p> <p>The 2019 UK SI adds the additional provision that a United Kingdom person or any person may contravene a relevant prohibition or ‘<i>may comply, or fail to comply, with a relevant requirement by conduct in the territorial sea.</i>’ This is more specific than the 2018 Export Order that refers to ‘<i>conduct wholly or partly outside the United Kingdom.</i>’</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Restricted goods and restricted technology	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 18 & 19	The Export Control (Burma Sanctions) (No2) Order 2018 – Reg 5	(c)	<p><b>Low Impact</b></p> <p>The 2018 Export Order refers to “<i>equipment</i>”, “<i>goods</i>”, “<i>technology</i>”, “<i>dual-use goods</i>” and “<i>software</i>” whereas the 2019 UK SI refers to these as “<i>restricted goods</i>” and “<i>restricted technology</i>”.</p> <p>“Restricted goods” means:</p> <ul style="list-style-type: none"> <li>- (a) military goods</li> <li>- (b) dual-use goods</li> <li>- (c) internal repression goods, and</li> <li>- (d) interception and monitoring goods</li> </ul> <p>“Restricted technology” means:</p> <ul style="list-style-type: none"> <li>- (a) military technology</li> <li>- (b) dual-use technology</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<ul style="list-style-type: none"> <li>- (c) internal repression technology, and</li> <li>- (d) interception and monitoring technology</li> </ul> <p>The change in definitions is unlikely to have a significant impact on financial institutions.</p>
Scope of prohibition	The Burma (Sanctions) (EU Exit) Regulations 2019 – Reg 21(4)	The Export Control (Burma Sanctions) (No2) Order 2018 – Reg 5 (a) – (k)	(c)	<p><b>Low impact</b></p> <p>The 2019 UK SI clarifies the scope of the prohibitions. The 2018 Export Order states the prohibitions relate to “<i>any natural or legal person, entity or body in, or for use in, Myanmar/Burma</i>” whereas the 2019 UK SI refers to “<i>any person connected with Burma</i>”.</p> <p>A person is to be regarded as “<i>connected with Burma</i>” if the person is:</p> <ul style="list-style-type: none"> <li>(a) an individual who is, or an association or combination of individuals who are, ordinarily resident in Burma;</li> <li>(b) an individual who is, or an association or combination of individuals who are, located in Burma;</li> <li>(c) a person, other than an individual, which is incorporated or constituted under the law of Burma, or</li> <li>(d) a person, other than an individual, which is domiciled in Burma.</li> </ul> <p>This definition differs in relation to the provision of interception and monitoring services and in this regard a person is “<i>connected with Burma</i>” if the person works for the Government of Burma or otherwise carries on activities on its behalf or under its direction.</p> <p>Given the nature of restricted goods and technology, the impact on financial institutions is likely to be low.</p>
Exporting, supplying,	The Burma (Sanctions) (EU	The Export Control (Burma	(c)	<p><b>Low Impact</b></p> <p>The 2018 Export Order prohibits the sale of equipment listed in Annex 1 which might be used</p>

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delivering, making available and transferring restricted goods and restricted technology	Exit) Regulations 2019 – Regs 22 to 25	Sanctions) (No2) Order 2018 – Reg 5 (2) (a), (f), and (i)		<p>for internal repression, the provision of technical assistance relating to military activities and the provision of financial assistance in relation to military activities amongst other activities.</p> <p>The 2019 UK SI separates restricted items into “restricted goods” and “restricted technology” and prohibits:</p> <ul style="list-style-type: none"> <li>- the export of restricted goods</li> <li>- the supply and delivery of restricted goods;</li> <li>- making restricted goods and restricted technology available; and</li> <li>- the transfer of restricted technology.</li> </ul> <p>The 2019 UK SI therefore mirrors the trade embargo imposed by the 2018 Export Order, but clarifies the scope.</p> <p>Given the nature of restricted goods and technology, the impact on financial institutions is likely to be low.</p>
Provision of military-related services	The Burma (Sanctions) (EU Exit) Regulations 2019 – 30 (1)	The Export Control (Burma Sanctions) (No2) Order 2018 – Reg 5 (b), (c), (g), (h)	(c)	<p><b>Low Impact</b></p> <p>The 2018 Export Order trade prohibitions refer to “military end users”, “Border Guard Police” and/or “military use”.</p> <p>The 2019 UK SI imposes a specific obligation to ‘<i>not directly or indirectly provide military-related services to or for the benefit of the Tatmadaw, or to any person acting on its behalf or under its direction.</i>’</p> <p>This prohibition specifically targets the Tatmadaw (the Burmese army), by prohibiting military-related services, defined as the provision of technical assistance, armed personnel, financial services and brokering services. Although the 2019 UK SI no longer specifically mentions other military end users and the Board Guard Police, by virtue of Regulation 21(4), these would fall within the scope of persons connected to Burma.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				Given the nature of this prohibition, the impact on financial institutions is likely to be low.
Licences	The Burma (Sanctions) (EU Exit) Regulations 2019 – 39 (1)	The Export Control (Burma Sanctions) (No2) Order 2018 – Reg 4 (7) (b)	(c)	<p><b>Low impact</b></p> <p>Under the 2018 Export Order, a person commits an offence if they “<i>knowingly or recklessly provide[s] information that is false in a material respect, or provides or produces a document that is not what it purports to be.</i>” The 2019 UK SI adds that this is applicable in the event that the licence is sought “<i>whether for P or anyone else</i>”.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Burundi (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Power to designate	The Burundi (Sanctions) (EU Exit) Regulations 2019 (the "2019 UK SI") – Regs. 5 to 6, Regs. 8 and 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out specific designation criteria at Regulation 4 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2015 SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2019 SI.</p>
Ownership and control provisions	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 7	-	(c)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2019 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
Asset freeze in relation to designated persons	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(1)-(4), Reg. 11(6)	The Burundi (European Union Financial Sanctions) Regulations 2015 (the "2015 SI") – Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The 2015 SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>In the 2019 UK SI, the term "<i>belonging to</i>" has been removed in relation to designated persons.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on why this term has been removed and whether the terms "<i>owned, held or controlled</i>" are considered by their ordinary definition to cover "<i>belonging</i>".</p>
Asset freeze in relation to designated persons	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(5)	The Burundi (European Union Financial Sanctions) Regulations 2015	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2015 SI previously defined the phrase "<i>deal with</i>" as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		– Reg. 3(2)		<p>This definition is extended in the 2019 UK SI to add "<i>(whether by pledging them as security or otherwise)</i>".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>
Asset freeze in relation to designated persons	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(6)	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 3	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(7)	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 3	(b)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This extends the scope of the wording in the 2015 SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Making funds and economic resources available to designated persons	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 12 and Reg. 14	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 4 and Reg. 6	(c)	<p><b>High Impact</b></p> <p>The 2015 SI states that a person ("P") must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds/economic resources so available.</p> <p>The 2019 UK SI explicitly states making funds/economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2019 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts<sup>7</sup>. The 2019 UK SI does not include a rebuttable presumption.</p>
Exceptions	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2019 UK SI sets out the following new exception:</p> <p><i>(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p>

<sup>7</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p>(a) <i>is not the designated person, and</i></p> <p>(b) <i>is not owned or controlled directly or indirectly (within the meaning of Regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Burundi	-	(b)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (EU Exit) Regulations 2019 – Reg. 19			<p>The 2019 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere.</p> <p>This is unlikely to have an impact on financial institutions.</p>
Treasury licences	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 20 (1)-(3), 21, Schedule 2	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2019 UK SI. Similar restrictions did not apply expressly under the 2015 SI.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 20(4) – (6)	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 9	(b)	<p><b>Low Impact</b></p> <p>Under the 2015 SI the Treasury may vary or revoke a licence at any time. The new 2019 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licences should be monitored.</p>
Treasury licences	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 21	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the 2015 SI, a person commits an offence if they "<i>knowingly or recklessly provides information that is false in a material respect, or provides or produces a document that is not what it purports to be.</i>" The 2019 UK SI adds that this is applicable in the event that the licence is sought "<i>whether for P or anyone else</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Reporting obligations	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 23	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 15 and Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2015 SI imposed reporting obligations on "relevant institutions" or "<i>relevant business or profession</i>". In the 2019 UK SI this has been replaced with "relevant <i>firm</i>". Regulation 24 in the 2019 UK SI clearly defines what a "<i>relevant firm</i>" is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Reporting obligations	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 23(4)	The Burundi (European Union Financial Sanctions) Regulations 2015 – Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2015 SI required relevant institutions which had a customer who was a designated person to inform the Treasury of the "nature and amount or quantity of any funds or economic resources held by it for the customer". The 2019 UK SI adds "<i>at the time when it first had the knowledge or suspicion</i>" to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Credits to frozen accounts	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 8 and Schedule	(a), (b) and (c)	<p><b>Medium impact</b></p> <p>Both the 2015 SI and the 2019 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p> <p>in the 2015 SI the exceptions applied to "a person", whereas in the 2019 UK SI the exceptions apply to "relevant institutions" only, which is defined as a person with Part 4A permission under the Financial Services and Markets Act 2000;</p> <p>the 2019 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person; and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>the exception under the 2015 SI which permitted a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted and this exception is not present in the 2019 UK SI;</p> <p>Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>
Disclosure of information	The Burundi (Sanctions) (EU Exit) Regulations 2019 – Reg. 28	The Burundi (European Union Financial Sanctions) Regulations 2015 – Schedule	(b)	<p>Both the 2015 SI and the 2019 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2019 UK SI, including:</p> <p>the 2015 SI authorised the disclosure of information by the Treasury, whereas the 2019 UK SI authorises the disclosure of information by the Treasury <i>or the Secretary of State</i>;</p> <p>the 2015 SI permitted the disclosure of information to the "Legal Services Commission, the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission". The 2019 UK SI only authorises disclosure to the Scottish Legal Aid Board but does not include the other two elements specified in the 2015 SI (the Legal Services Commission was replaced by the Legal Aid Agency in 2013 but this is also not included in the 2019 UK SI);</p> <p>both the 2015 SI and the 2019 UK SI permit disclosure to "any other regulatory body", however, the 2015 SI stated "including those of other Member States", whereas the 2019 UK SI is broader and states "whether or not in the United Kingdom";</p> <p>both the 2015 SI and the 2019 UK SI permit disclosure to other Governments, however, the 2015 SI stated "the Government of a Member State" whereas the 2019 UK SI is broader and states "the Government of any country";</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>both the 2015 SI and the 2019 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2019 UK SI also includes the European External Action Service; and</p> <p>the 2019 UK SI also has a new category for disclosure which states that disclosure can be made to "any other person where the Secretary of State or the Treasury (as the case may be) <i>considers</i> that it is appropriate to disclose the information".</p>
Consent to prosecute	-	The Burundi (European Union Financial Sanctions) Regulations 2015 – Reg. 14	(a)	The 2015 SI stated that proceedings for offences under the regulations (other than for summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2019 UK SI.

# The Central African Republic (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616 (the "UK SI")</p> <p>The Central African Republic (European Union Financial Sanctions) Regulations 2014 (the "EU Financial Services SI")</p> <p>EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the Central African Republic (the "EU Regulation")</p> <p>EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</p> <p>Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258 (the "EU Export Control SI")</p> <p>Export Control Order 2008/3231 (the "Export Control Order")</p> <p>Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</p>
Asset freeze in relation to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 12(1)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The substantive difference is that the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 12(5)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>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.</i>"</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).</i>" This largely mirrors the language of the EU Financial Services SI, however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that in most cases the UK SI's language of "<i>exchanging</i>" or "<i>using the economic resources in exchange for...</i>" will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise.</i>" In theory, this creates a greater scope for debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "<i>economic resources</i>" in section 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets...which can be used to obtain funds</i>" so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg.	EU Guidance 8519/18	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "<i>owned, held or controlled</i>" stating that they include:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	12(6)			<p>(a) <i>"funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources"</i> (emphasis added); and</p> <p>(b) <i>"any tangible property (other than real property) or bearer security that is comprised in funds or economic resources and is in possession of the person."</i></p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that "<i>holding or controlling</i>" should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer,</p> <p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity,</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g. for the purpose of managing a specific bank account), or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear the UK SI casts a wider net on the meaning of "<i>owned, held or controlled</i>" as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>can dispose of or transfer the funds/economic resources without any need for prior approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 12(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity</i>" (emphasis added).</p> <p>The new language in the UK SI - which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons - mirrors EU Guidance. However under the EU Regulation there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Regs. 13 and 15	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 13 and 15 - which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic resources available for the benefit of designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Regs. 14 and 16	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Regs. 5 and 7	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant financial benefit</u></i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>" The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we could see a divergence between EU and UK concepts of "making available".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, section 44	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 13(1)	(a)	<p><b>Low Impact</b></p> <p>Art. 13 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under section 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 7 and Sch. 1	-	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

This review does not constitute legal advice and should not be relied upon by any parties.

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(3) [...]</p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to</u> the ability to appoint or remove a majority of the board:</p> <p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p> <p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p>

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				<p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch all, as show in subsection (4) above, and so likely having regard to 'all the circumstances' will include the factors above. However, on the fact of it, the wording of the UK SI presents a much more limited view of what constitutes 'control'.</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Schedule 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <p>pursuant to paragraph 2 of Schedule 1, persons who hold a share or right jointly are each treated as holding that share or right; and</p> <p>pursuant to paragraph 3 of Schedule 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see paragraph (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person holding rights or exercising powers in order for the control test to be met.</p> <p>Paragraph 4 of Schedule 1 defines a person holding "more than 50% of the shares" in a person</p>

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				<p>to be a person holding shares comprised in the issued share capital of that person "of a nominal value exceeding (in aggregate) 50% of that share capital". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than "50% of the proprietary" rights in a person.</p> <p>Paragraph 9 of Schedule 1 deals with the meaning of shares or rights being held "<u>indirectly</u>". This occurs where a person has a "majority stake" in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, paragraph 9(4) of Schedule 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paragraphs 10 and 11 of Schedule 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in paragraph 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions or in that person's interests (except for purposes of preserving</p>

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				or exercising security)).
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 31(3)	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 10(2)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with interest or other earnings due on an account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only. Secondly, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 31(5)	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 10(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.</p>

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Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 31(6)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts: (1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 31	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 10(2)(c)	(b)	<p><b>Medium Impact</b></p> <p>The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted (and there is no equivalent carried across in respect of judicial, administrative or arbitral decisions rendered in the UK or enforceable in the UK).</p>

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Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 32	-	(b)	<p><b>Low Impact</b></p> <p>Reg. 32 contains a new exception for acts done for the purposes of national security or prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 33(2) – (3)	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 6	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences in respect of asset freeze restrictions are split into those that apply in relation to a non-UN designated person and those that apply in relation to a UN designated person.</p> <p>For both UN designated and non-UN designated persons:</p> <ul style="list-style-type: none"> <li>a licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains (see Sch. 2, Part 2, para. 2). However, (i) the types of "basic needs" have been split into those for an individual and those for an entity, (ii) the language appears to focus on the "needs" for food, etc. rather than "payments for" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "basic needs" for entities such as "the payment of reasonable fees for the provision of property management services" and the "payment of remuneration, allowances or pensions of employees". There is also a fairly broad clarification of what constitutes a "dependent family member" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</li> </ul>

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				<p>a licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 2, Part 2, para. 3). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "reasonable" (albeit this is in accordance with the practice OFSI applies already).</p> <p>a licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 2, Part 2, para. 4). However, again, such fees and service charges are now required to be "reasonable".</p> <p>a licence to enable payment of extraordinary expenses remains (see Sch. 2, Part 2, para. 5). However, there is a new qualification in that the expenses must be of a designated person.</p> <p>a licence in respect of prior obligations still remains (see Sch. 2, Part 2, para. 7). However, the provision in the UK SI does not on its face require the funds or economic resources to be used for a payment by a designated person, instead it provides for "the use of a designated person's frozen funds or economic resources..." which may broaden the potential for licences to be granted to third parties of the same. In addition, the new provision requires that "the obligation arose before the date on which the person became a designated person". This appears to potentially be narrower than the licensing ground in the EU Regulation which also applies where the "contract or agreement... was concluded... before the date on which [the person was designated]". For the purposes of a licence application under this ground, the key criterion will therefore be on what date the obligation in question arose rather than the date the agreement in question concluded and therefore precludes the use of any arguments in relation to extension of the term of pre-existing agreements.</p>

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				<p>For non-UN designated persons, the following new licensing purposes also apply (see Sch. 2, Part 3):</p> <p>Humanitarian assistance activities;</p> <p>Diplomatic missions; and</p> <p>Extraordinary situations (which is not defined so is potentially flexible, but this is unclear).</p> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 35(5)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>
Treasury Licences	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 36(1)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Information Obligations	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 39(5)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with interest or other earnings due on the account, (ii) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or (iii) with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned. The last two notification requirements have been deleted from the UK SI.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 31(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 31(6). The latter notification requirement is a new addition.</p>
Information Obligations	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 39(4)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Sch. 1, para. 1(4)	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 39(4) that where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 41(6)	The Central African Republic (European Union Financial Sanctions) Regulations	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, the Treasury was permitted to request "<i>any person in or resident in the United Kingdom</i>" to provide relevant information, whereas under the UK SI, this has been widened to any person "<i>if the Treasury believe that the person may be able to provide the information</i>".</p>

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		2014/587, Sch. 1, para. 2(4)		
Information Obligations	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 41(7)(c)	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Sch. 1, para. 2(5)(c)	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include "<i>detecting or obtaining evidence of the commission of an offence...</i>" (emphasis added).</p> <p>This is unlikely to have a material impact on the obligations of financial institutions</p>
Information Obligations	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 47	The Central African Republic (European Union Financial Sanctions) Regulations 2014/587, Sch. 1, para. 5  Export Control Order 2008/3231, Art. 43	(c)	<p><b>Low Impact</b></p> <p>In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.</p> <p>For example, information may be disclosed for any purpose stated in Reg. 4 (i.e., the purposes of the UK SI), and to "<i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i>".</p>
Trade Controls	The Central African Republic (Sanctions) (EU	Export Control Order 2008/3231, Art.	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the export of military goods to, or for use in, the</p>

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	Exit) Regulations 2020/616, Reg. 21	3		<p>Central African Republic. This is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy). However, this is in line with the general prohibition (subject to exceptions and licensing) on the export of military goods contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day) and the UK SI provisions will sit alongside the same.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 22	Export Control Order 2008/3231, Art. 20	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the direct or indirect supply or delivery of military goods from a third country to a place in the Central African Republic, unless that person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for the Central African Republic. This is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy).</p> <p>However, this is in line with the general prohibition (subject to exceptions and licensing) contained in the Export Control Order at Art. 20 (and the defence for "no reasonable suspicion" in Art. 34). The Export Control Order prohibits the supply or delivery, an agreement to supply or deliver, and any act calculated to promote the supply for delivery to the Central African Republic (being an "embargoed destination"). The UK SI provisions will sit alongside this.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 23-24	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI introduces at Reg. 23 a new prohibition on directly or indirectly making military goods or military technology available to a person connected with the Central African Republic or for use in the Central African Republic, however it is a defence if there is no knowledge, or reasonable cause to suspect that the person was connected with the Central</p>

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				<p>African Republic, or that the goods or technology were for use in the Central African Republic.</p> <p>Similarly, by virtue of Reg. 24, it is also now prohibited to transfer military technology to a place in the Central African Republic or to a person connected with the Central African Republic (unless there was no knowledge, or reasonable cause to suspect, that the transfer was to a place in the Central African Republic or to a person connected with the Central African Republic). This will be more difficult to screen for.</p> <p>The definition of "connected with" is extremely broad and includes:</p> <ul style="list-style-type: none"> <li>an individual who is, or an association or combination of individuals who are, ordinarily resident in the Central African Republic;</li> <li>an individual who is, or an association or combination of individuals who are, located in the Central African Republic;</li> <li>a person, other than an individual, which is incorporated or constituted under the law of the Central African Republic; or</li> <li>a person, other than an individual, which is domiciled in the Central African Republic.</li> </ul> <p>This prohibition does not appear in the EU Financial Services SI, the EU Regulation or the Export Control Order. The prohibition is broadly drafted; particularly the prohibition on "indirect making available" military goods and technology. This could capture financial transactions to facilitate the movement or purchase of targeted goods by someone "connected with" the Central African Republic, or for use in the Central African Republic. Financial institutions will again need to ensure sufficient diligence is conducted on transactions to identify any touchpoint to the Central African Republic, to ensure they can benefit from the defence of having "no reasonable cause to suspect".</p>
Trade Controls	The Central African Republic	EU Council Regulation	(b) and (c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a prohibition on the direct or indirect provision of technical</p>

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	(Sanctions) (EU Exit) Regulations 2020/616, Reg. 25	224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 2(a)  Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg. 6(a)		<p>assistance related to the goods and technology listed in the Common Military List, or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in the Central African Republic or for use in the Central African Republic. This was transposed into UK law by the EU Export Control SI.</p> <p>The new UK SI contains a similar prohibition, subject to three changes:</p> <p>(a) it prohibits the provision of technical assistance to "a person connected with the Central African Republic". As above, this is an extremely broad definition and wider than the scope of a designated person;</p> <p>(b) it does not include the reference to "technical assistance...related to the provision, manufacture, maintenance or use of goods." Therefore this technically applies a narrower prohibition, however as the definition of "technical assistance" in the UK SI includes technical support relating to the provision, maintenance and use of the goods or technology, this is unlikely to have any material impact (albeit there may be divergence in interpretation);</p> <p>(c) the EU Export Control SI stipulates that, for an offence to occur in relation to the provision of technical assistance, a person must be knowingly concerned in activity with the intent to evade the prohibition in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The Central African Republic (Sanctions) (EU	EU Council Regulation 224/2014	(a) and (b)	<p><b>Medium Impact</b></p> <p>The UK SI's prohibition on providing financial services and funds related to military goods and technology to persons in, or for use in, the Central African Republic is broader than the</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Exit) Regulations 2020/616, Reg. 26  Sanctions and Anti-Money Laundering Act 2018, section 61	concerning restrictive measures in view of the situation in the CAR, Art. 2(b)  Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg. 6(b)		equivalent provisions in the EU Regulation and EU Export Control SI. Specifically, there are restrictions on: <ol style="list-style-type: none"> <li>(1) directly or indirectly providing, to a person connected with the Central African Republic, financial services in pursuance of or in connection with an arrangement whose object or effect is:               <ol style="list-style-type: none"> <li>(a) the export of military goods;</li> <li>(b) the direct or indirect supply or delivery of military goods;</li> <li>(c) directly or indirectly making military goods or military technology available to a person;</li> <li>(d) the transfer of military technology; or</li> <li>(e) the direct or indirect provision of technical assistance relating to military goods or military technology;</li> </ol> </li> <li>(2) directly or indirectly making funds available to a person connected with the Central African Republic in pursuance of or in connection with an arrangement mentioned in (1) above; and/or</li> <li>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—               <ol style="list-style-type: none"> <li>(a) the export of military goods to, or for use in, the Central African Republic,</li> <li>(b) the direct or indirect supply or delivery of military goods to a place in the Central African Republic,</li> </ol> </li> </ol>

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				<p>(c) directly or indirectly making military goods or military technology available to a person connected with the Central African Republic or for use in the Central African Republic,</p> <p>(d) the transfer of military technology to a person connected with the Central African Republic or for use in the Central African Republic, or</p> <p>(e) the direct or indirect provision of technical assistance relating to military goods or military technology to a person connected with the Central African Republic or for use in the Central African Republic.</p> <p>The key differences for financial institutions are as follows:</p> <p>(a) as the definition of "connected person" is extremely wide (see above) and this category of persons is broader than designated persons, and will therefore fall outside screening procedures – this is particularly concerning for the prohibition at (2) on the "making funds available" to such persons;</p> <p>(b) UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services", which is non-exhaustively defined in the SAMLA as including insurance-related, banking and other financial services. The EU listed examples of "financial assistance" are all explicitly covered by the SAMLA (that is, loans, export credit insurance, insurance and reinsurance) except for grants. It is not clear whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case;</p> <p>(c) it was prohibited under the EU Regulation/EU Export Control SI to provide financing or financial assistance for the provision of related brokering services. It appears this prohibition is not explicitly replicated; and/or</p>

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				<p>(d) the EU Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance to designated persons related to military activities, a person must be knowingly concerned in the provision of such financing or financial assistance with the intent to evade the prohibition in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 27	<p>EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 2(a)</p> <p>Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg.</p>	(b)	<p><b>High Impact</b></p> <p><u>Change in Definition</u></p> <p>The UK SI's definition of "brokering services" is wider than in the EU Regulation (where it is, in summary limited to: (i) buying or selling; or (ii) the negotiation or arrangement of transactions for purchase, sale or supply of goods, technology or financial or technical services from a third country to another third country.)</p> <p>Under the UK SI, it includes:</p> <p>(1) any services to secure, or otherwise in relation to, an arrangement, including (but not limited to):</p> <p>(a) the selection or introduction of persons as parties or potential parties to the arrangement;</p> <p>(b) the negotiation of the arrangement;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		6(a)		<p>(c) the facilitation of anything that enables the arrangement to be entered into; and</p> <p>(d) the provision of any assistance that in any way promotes or facilitates the arrangement.</p> <p><u>Change in Prohibition</u></p> <p>Under the EU Regulation and the EU Export Control SI, the prohibition of brokering services is in relation to the provision, manufacture, maintenance and use of goods on the Common Military List to any person, entity or body in the Central African Republic or for use in the Central African Republic.</p> <p>In the UK SI, the scope of the prohibition against brokering services is, on its face, wider. It covers arrangements where the object or effect is:</p> <p>(a) the direct or indirect supply or delivery of military goods from a third country to a place in the Central African Republic;</p> <p>(b) directly or indirectly making military goods or technology available in a third country for direct or indirect supply or delivery to a person connected with the Central African Republic or to a place in the Central African Republic;</p> <p>(c) the transfer of, or making available for transfer, military technology from a place in a third country to a person connected with the Central African Republic or to a place in the Central African Republic;</p> <p>(d) the direct or indirect provision in a non-UK country, of technical assistance relating to military goods or technology to a person connected with the Central African Republic or to a place in the Central African Republic;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(e) the direct or indirect provision, in a non-UK country, of financial services to a person connected with the Central African Republic or to a place in the Central African Republic (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above));</p> <p>(f) directly or indirectly making funds available, in a non-UK country, to a person connected with the Central African Republic (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above)); or</p> <p>(g) the direct or indirect provision of funds from a non-UK country, where the arrangement or any other connected arrangement is within the scope of Reg. 26 (outlined above).</p> <p>As above, the UK SI does not contain a requirement on the prosecution to establish "intent to evade", which is currently required under the EU Export Control SI. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	<p>The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 28</p> <p>Sanctions and Anti-Money Laundering Act 2018, section 61</p>	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 2(c)	(b)	<p><b>Medium Impact</b></p> <p>There is a prohibition in the EU Regulation against technical assistance, financing or financial assistance, brokering services or transport services related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic. However, the UK SI includes a prohibition on the direct or indirect provision of technical assistance, armed personnel, financial services or funds, or brokering services where such provision enables or facilitates the conduct or armed hostilities in the Central African Republic.</p> <p>The UK SI's wording is broader (targeting the "facilitation" of armed hostilities rather than the provision of mercenary). Further, given that "financial services" are non-exhaustively and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				broadly defined under the SAMLA as including insurance-related, banking and other financial services, this has a potentially wide application which could capture the transactions arranged by financial institutions. It is, however, a defence to show there was no knowledge, or reason to suspect, that the relevant act would enable or facilitate the conduct of armed hostilities in the CAR.
Trade Controls	-	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 3	(a)	<p><b>Potentially Medium Impact</b></p> <p>The EU Regulation contains an exemption to the trade control restrictions contained in Art. 2 for the provision of technical assistance, financing or financial assistance or brokering services:</p> <p>(a) <i>"intended solely for the support of or use by MINUSCA, the Union missions and the French forces deployed in the CAR, as well as other UN Member States' forces providing training and assistance as notified to the Sanctions Committee;</i></p> <p>(b) <i>related to protective clothing, including flak jackets and military helmets, temporarily exported to the CAR by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only;</i></p> <p>(c) <i>related to the supplies of non-lethal equipment and provision of assistance, including operational and non-operational training to the CAR security forces, including State civilian law enforcement institutions, intended solely for support of or use in the CAR process of Security Sector Reform, in coordination with MINUSCA, provided that they have been notified in advance to the Sanctions Committee;</i></p> <p>(d) <i>related to non-lethal military equipment intended solely for humanitarian or protective use, provided that the provision of such assistance or services has been notified at least 20 days in advance to the Sanctions Committee;</i></p> <p>(e) <i>related to weapons with a calibre of 14,5 mm or less and ammunition and components specially designed for such weapons, and to unarmed ground military vehicles and</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>ground military vehicles mounted with weapons with a calibre of 14,5 mm or less, and their spare parts, and to rocket-propelled grenades, and ammunition specially designed for such weapons, to the CAR security forces, including state civilian law enforcement institutions, where such weapons, ammunition, components and vehicles are intended solely for support of, or use in, the CAR process of SSR, provided that the provision of such assistance or services has been notified at least 20 days in advance to the Sanctions Committee;</i></p> <p>(f) <i>related to arms and other related lethal equipment that are not listed in point (e) of Article 3, to the CAR security forces, including state civilian law enforcement institutions, where such arms and equipment are intended solely for support of, or use in, the CAR process of SSR, as approved in advance by the Sanctions Committee".</i></p> <p>This exemption is not carried forward into the UK SI which could have an impact for financial institutions that currently rely on these exemptions.</p>
Trade Control Licences	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 35(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<p><b>Low Impact</b></p> <p>Reg. 35(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be "<i>limited so as to expire on a specified date unless renewed</i>". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.</p>
Trade Control Licences	The Central African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 37(2)	The Export Control Order 2008/3231, Art. 38(1)- (2)	(c)	<p><b>Low Impact</b></p> <p>Pursuant to Reg. 37(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 37(2) there is no carve out from the offence where the licence is modified after completion of the act authorised. This means that the UK SI contains a broader prohibition.</p>
Defences	The Central	-	(b)	<b>Medium Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	African Republic (Sanctions) (EU Exit) Regulations 2020/616, Reg. 30(2)			<p>There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.</p> <p>This will make it easier for financial institutions to rely upon defences.</p>
Satisfaction of claims	-	EU Council Regulation 224/2014 concerning restrictive measures in view of the situation in the CAR, Art. 14	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a restriction on the satisfaction of claims made by a designated person or person acting through or on behalf of a designated person in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under the EU Regulation.</p> <p>This is not carried forward into the UK SI but is unlikely to have a material impact for financial institutions.</p>

# The Chemical Weapons (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Scope of the Regulations	The Chemical Weapons (Sanctions) (EU Exit) Regulations 2019 No. 618 ("UK Chemical Weapons SI"), Reg. 3(1) and 3(7)	The Chemical Weapons (Asset-Freezing) Regulations 2018 No. 1090 ("EU Chemical Weapons SI"), Reg. 1(2)	(b)	<p><b>Medium Impact</b></p> <p>The EU Chemical Weapons SI provides that an offence under these Regulations may be committed by conduct wholly or partly outside the UK.</p> <p>The UK Chemical Weapons SI provides that an offence under these Regulations may be committed by conduct both within and outside the UK.</p> <p>The UK Chemical Weapons SI is wider in scope than the EU Chemical Weapons SI. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more activity is sanctioned under the UK Chemical Weapons SI.</p>
Asset freeze in relation to designated persons	UK Chemical Weapons SI, Reg. 11(5)	EU Chemical Weapons SI, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Chemical Weapons SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK Chemical Weapons SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	UK Chemical Weapons SI, Reg. 11(6)	EU Chemical Weapons SI, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Chemical Weapons SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p> <p>This new language is similar in effect to the concept of ownership and control set out in previous non-binding guidance provided by the EU<sup>8</sup>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	UK Chemical Weapons SI, Reg. 11(7)	EU Chemical Weapons SI, Reg. 3(1)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Chemical Weapons SI provides that funds or economic resources are treated as owned, held, or controlled by a designated person if they are "<i>owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Chemical Weapons SI to include a new express prohibition on dealing with the funds or economic resources of entities owned or controlled by such designated persons.</p>
Prohibition on making funds and economic resources available to designated persons	UK Chemical Weapons SI, Reg. 12(4)	EU Chemical Weapons SI, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK Chemical Weapons SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p>

<sup>8</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>No such provision is contained in the EU Chemical Weapons SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	UK Chemical Weapons SI, Reg. 14 (4)	EU Chemical Weapons SI, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making <u>economic resources</u> available to designated persons, the UK Chemical Weapons SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>No such provision is contained in the EU Chemical Weapons SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	UK Chemical Weapons SI, Reg. 7	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>The UK Chemical Weapons SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C;</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C; or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>The EU Chemical Weapons SI and Council Regulation 2018/1542 ("<b>EC Regulation 2018/1542</b>") do not provide a definition of ownership and control, but the EU has provided non-binding guidance on the definition.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic	UK Chemical Weapons SI, Reg. 18(1) and (2)	EU Chemical Weapons SI, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Chemical Weapons SI sets out the following new exception:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
resources available to designated persons				<p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated	UK Chemical Weapons SI, Reg. 18(3)	EU Chemical Weapons SI, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Chemical Weapons SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK Chemical Weapons SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK Chemical Weapons SI this exception applies to the</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
persons				<p><i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Chemical Weapons SI, Reg. 18(5)	EU Chemical Weapons SI, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Chemical Weapons SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK Chemical Weapons SI. Under the new UK Chemical Weapons SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Chemical Weapons SI, Reg. 20(2), Schedule 2(6)	EU Chemical Weapons SI, Reg. 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Chemical Weapons SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p> <p>The UK Chemical Weapons SI provides that a Treasury Licence is required to enable, the use by a designated person's frozen funds or economic resources, the implementation or satisfaction (whether in whole or in part) of a judicial, administrative or arbitral decision or</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>lien provided the funds or economic resources used are the subject of the decision or lien, the decision or lien was made or established prior to the person becoming designated, and the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person (Schedule 2(6)).</p> <p>This would impact financial institutions seeking to credit frozen accounts with payments due under judicial, administrative or arbitral decisions in that they would under, the new UK Chemical Weapons SI, need to apply for a licence to do this.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Chemical Weapons SI, Reg. 18(6)	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK Chemical Weapons SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts: <i>[(1)] The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000 (7),</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000 (8), and</i></p> <p><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on	UK Chemical Weapons SI, Reg. 19	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK Chemical Weapons SI sets out the following new exception for acts done for</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons				<p>purposes of national security or prevention of serious crime:</p> <p>"(1) Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—</p> <p>(a) national security, or</p> <p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.</p> <p>(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—</p> <p>(a) national security, or</p> <p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere."</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK Chemical Weapons SI, Reg. 20(2) and Schedule 2	EU Chemical Weapons SI, Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The UK Chemical Weapons SI limits the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK Chemical Weapons SI. Similar restrictions did not expressly apply under the EU Chemical Weapons SI, which stated only that licences may be subject to conditions but did not specify that licences would only be granted for specific purposes.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury Licences	UK Chemical Weapons SI, Reg. 20(2) and Schedule 2(8)	EU Chemical Weapons SI, Reg. 9  EC Regulation 2018/1542, article 3 -article 6	(b)	<p><b>Low Impact</b></p> <p>As stated above, Schedule 2 of the UK Chemical Weapons SI provides a list of circumstances in which the Treasury may issue a licence authorising acts by a particular person. The list of purposes set out in Schedule 2 reflects the list of possible derogations contained in the EC Regulation 2018/1542 (but not set out in the EU Chemical Weapons SI) except for the following purpose which is listed in the UK Chemical Weapons SI only:</p> <p><i>"Extraordinary Situations"</i></p> <p><i>To enable anything to be done to deal with an extraordinary situation".</i></p> <p>Whilst this change is unlikely to have a material impact on the day to day obligations of financial institutions, it arguably broadens the scope of the licensing regime which could have an impact on financial institutions which are faced with extraordinary situations and are granted a licence by the Treasury authorising a specific act.</p>
Treasury Licences	UK Chemical Weapons SI, Reg. 21(5)	EU Chemical Weapons SI, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Chemical Weapons SI the Treasury may vary or revoke a licence at any time. The new UK Chemical Weapons SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK Chemical Weapons SI, Reg. 22	EU Chemical Weapons SI, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Chemical Weapons SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK Chemical Weapons SI clarifies that this</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Designation of Persons	UK Chemical Weapons SI, Reg. 9	N/A	(b)	<p><b>Low Impact</b></p> <p>Under the UK Chemical Weapons SI, the Secretary of State may inform only certain persons of a designation, variation or revocation of the content of a statement of reasons and may specify that such information is to be treated as confidential. It is an offence to disclose this information knowing or with reasonable cause to suspect that the information is confidential except if the disclosure is made with "lawful authority".</p> <p>No such offence exists under the EU Chemical Weapons SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions unless they obtain information that is to be treated as confidential.</p>
Information Obligations	UK Chemical Weapons SI, Reg. 23(5) and 20(3) and Schedule 2	EU Chemical Weapons SI, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Chemical Weapons SI provided that relevant institutions had to inform the Treasury without delay if it credited a frozen account with:</p> <p>(1) <i>"Interest or other earnings due on the account;</i></p> <p>(2) <i>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or</i></p> <p>(3) <i>Payments due under judicial, administrative or arbitral decisions rendered in a Member State or enforceable in the UK."</i></p> <p>Under the UK Chemical Weapons SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 18(4) (receipt of funds</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>to credit a frozen account) or regulation 18(6) (transfers funds from a frozen account).</p> <p>Further, under the UK Chemical Weapons SI, a Treasury licence is required to credit a frozen account (or otherwise use funds in a frozen account to make):</p> <p>with payments due arising from pre-existing obligations due under contracts or other agreements (Schedule 2(9)); or</p> <p>to implement or satisfy pre-existing judicial, administrative or arbitral decisions or liens (Schedule 2(6)).</p> <p>This would impact financial institutions seeking to credit frozen accounts with payments arising from pre-existing obligations or due under judicial, administrative or arbitral decisions in that they would under, the new UK Chemical Weapons SI, need to apply for a licence to do these activities.</p>

# Counter Terrorism (International Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Scope of the Regulations	Counter Terrorism (International Sanctions) (EU Exit) Regulations 2019 No. 573 ("International CTR") Reg. 11(5)  The Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 ("CTR") Reg. 11(5)	Terrorist Asset-Freezing etc. Act 2010 section 33	(b)	<b>Medium Impact</b>  Terrorist Asset-Freezing etc. Act 2010 ("TAFAs") provided that an offence under these Regulations may be committed by conduct wholly or partly outside the UK.  The Counter Terrorism (International Sanctions) (EU Exit) Regulations 2019 No. 573 ("International CTR") and the Counter-Terrorism (Sanctions) (EU Exit) Regulations 2019 ("CTR") provided that an offence under these Regulations may be committed by conduct both within and outside the UK.  The International CTR and the CTR are wider in scope than TAFAs. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more activity is sanctioned under the International CTR and the CTR.
Asset freeze in relation to designated persons	International CTR Reg. 11(5)  CTR Reg. 11(5)	TAFAs section 11(1)	(c)	<b>Low Impact</b>  The International CTR and the CTR impose identical measures in relation to asset freezes.  For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, TAFAs, which gives effect to the relevant EU Council decisions in the UK, defines the phrase "deals with" economic resources as the "exchange, or use in exchange, for funds, goods or services".  This definition has been extended slightly in the CTR and the International CTR to include the pledge of economic resources as security or otherwise.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Asset freeze in relation to designated persons	International CTR Reg. 11(6) CTR Reg. 11(6)	Terrorist Asset-Freezing etc. Act 2010, section 11	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the CTR and International CTR include a new provision stating that funds or economic resources are "owned, held or controlled" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p> <p>This new language is similar in effect to the concept of ownership and control set out in previous non-binding guidance provided by the EU<sup>9</sup>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	International CTR. 2019 No. 573 Reg. 11(7) CTR Reg. 11(7)	Terrorist Asset-Freezing etc. Act 2010, section 11	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the CTR and International CRT provide that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the TAFE to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>

<sup>9</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds, financial services or economic resources available to designated persons	International CTR. 2019 No. 573 Reg. 12(4)  CTR Reg. 12(4)	Terrorist Asset-Freezing etc. Act 2010, section 12(1)	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds or financial services available directly or indirectly to designated persons is extended by the CTR and International CTR, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>No such provision is contained in the TAFA.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds, financial services or economic resources available to designated persons	Reg. 14(1) International CTR;  Reg. 14(1) CTR;	S. 14(1) TAFA	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making <u>economic resources</u> available to designated persons, the CTR and International CTR provides that <u>economic resources</u> are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	Reg. 7 and Schedule to CTR and International CTR	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>Whilst TAFA does not define control or ownership, the definition of "controlling a legal person, group or entity" under Article 1(6) of the Reg. 2580/2001 has direct effect.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The CTR and International CTR simplify the meaning of "owned or controlled directly or indirectly", so that it applies if either of the following 2 conditions is met:(1) The first condition is that 'P':</p> <ul style="list-style-type: none"> <li>(a) holds directly or indirectly more than 50% of the shares in a non-natural person 'C';</li> <li>(b) holds directly or indirectly more than 50% of the voting rights in C; or</li> <li>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</li> </ul> <p>(2) The second condition is that is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</p> <p>The first condition broadly matches Art.1(5) of Reg. 2580/2001 which defined "Owning a legal person, group or entity" as being in possession of 50% or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein.</p> <p>Article (2)(b) and (c) were effectively covered under Reg. 2580/2001 (Article 1(6)(a)-(e)). However, the Schedule to CTR and International CTR sets out new detailed rules for interpreting the first condition and how to treat:</p> <ul style="list-style-type: none"> <li>joint interests;</li> <li>joint arrangements;</li> <li>calculating shareholdings;</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>voting rights;</p> <p>rights to appoint/remove members of the board;</p> <p>shares/rights held indirectly;</p> <p>shares held by nominees;</p> <p>rights treated as held by a person who controls their exercise;</p> <p>rights exercisable only in certain circumstances; and</p> <p>rights attached to shares held by way of security.</p> <p>The second conditions substantially covers the EU Regs definitions under Article 1(6), but provides for a potentially wider application of the ownership and control dependent upon the specific circumstances of the case.</p> <p>This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Trade Controls	International CTR Regs. 19-26	N/A	(b)	<p><b>Low Impact</b></p> <p>The International CTR introduces express restrictions on:</p> <p>the export of military goods to a designated person;</p> <p>the supply or delivery of military goods from a third country to a designated person;</p> <p>making military goods or technology available or transferring military technology to or for the benefit of designated persons;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>providing technical assistance relating to military goods or military technology to, or for the benefit of, designated persons;</p> <p>providing financial and brokering services, and making funds available, to or for the benefit of designated persons; and</p> <p>providing technical assistance, financial services or funds, or brokering services where such provision enables the conduct of armed hostilities.</p> <p>Designated persons for purposes of these controls may not be the same as designated persons which are the subject of the financial provisions referred to above.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	International CTR Reg. 29(1) and CTR Reg. 17(1)	N/A	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the CTR and International CTR set out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) <i>is not the designated person, and</i></p> <p>(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	International CTR Reg. 29(3); and CTR Reg. 17(3)	TAFA section 16(1)	(c)	<p><b>Low Impact</b></p> <p>The TAFA provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new CTR and International CTR. Under the CTR and International CTR, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a <i>relevant institution</i> for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and	International CTR Reg. 29(6) and CTR	N/A	(c)	<p><b>Low Impact</b></p> <p>The CTR and International CTR set out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person,</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
economic resources available to designated persons	Reg. 17(6)			<p>and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts: <i>[(1)] The prohibitions in regulations 13 to 15 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <ul style="list-style-type: none"> <li><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></li> <li><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></li> <li><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	International CTR Reg. 29(5) and CTR Reg. 17(5)	s. 16(1)(b) TAFA	(c)	<p><b>Low Impact</b></p> <p>TAFA provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the CTR and International CTR. Under the CTR and International CTR, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to <i>a relevant institution</i> for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	CTR Reg. 18.and International CTR Reg. 30	N/A	(b)	<p><b>Low Impact</b></p> <p>The CTR and International CTR set out the following new exception for acts done for purposes of national security or prevention of serious crime:</p> <p>(1) "Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance) or 5 (Trade), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—</p> <p>(a) national security, or</p> <p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.</p> <p>(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 7 (Information and records) [or Part 9 (maritime enforcement)], that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—</p> <p>(a) national security, or</p> <p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	International CTR Reg. 31 and CTR Reg. 19	TAFA section 17	(d)	<p><b>Low Impact</b></p> <p>The provisions relating to licensing under the CTR and International CTR closely reflect the language and effect of the licensing provisions in TAFA.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>This licensing regime is different to that created by the post-Brexit statutory instruments for other regimes, in that it does not limit the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in the schedule of the relevant SI.</p> <p>This discrepancy is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on providing financial services, funds and brokering services relating to military goods and military technology to or for the benefit of a designated person	Reg. 24 and 25 International CTR	N/A	(b)	<p><b>Low Impact</b></p> <p>The International CTR introduced a new prohibition that a person must not directly or indirectly provide financial services to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement whose object or effect relates to military goods and technology. This prohibition, and others relating to trade, are not included in the CTR, although it does mirror the prohibition under the ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 ("<b>ISIL Regs</b>"), which in turn, broadly replicates the prohibition under the EU's autonomous ISIL/Al-Qaida regime.</p> <p>The International CTR also introduces a prohibition on the provision of brokering services relating to military goods and military technology. As above, this prohibition is not included in the CTR but it does mirror that in the ISIL Regs. The prohibition provides a non-exhaustive definition of "brokering services" (Reg. 18(3)) and sets out a list of the specific arrangements in respect of which brokering services are prohibited (Reg. 25(1)).</p> <p>This prohibition is unlikely to have a material impact on the obligations of financial institutions. It does, however, introduce a discrepancy between the prohibition under CTR and International CTR.</p>
Enabling or facilitating the conduct of armed hostilities	Reg. 26 International CTR	N/A	(b)	<p><b>Low Impact</b></p> <p>The International CTR introduces a new prohibition on providing financial services, funds or brokering services in relation to an arrangement whose object or effect is to provide, in a non-</p>

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				<p>UK country, technical assistance, financial services or funds, where such provision enables or facilitates the conduct of armed hostilities, directly or indirectly to, or for the benefit of, a designated person</p> <p>This new prohibition is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	CTR Reg. 21(5) and International CRT Reg. 34(5)	TAFA section 16(4)	(c)	<p><b>Low Impact</b></p> <p>The TAFA provided that relevant institutions had to inform the Treasury without delay if it credited a frozen account with:</p> <p>(a) <i>"Interest or other earnings due on the account; or</i></p> <p>(b) <i>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account"</i>.</p> <p>Under the CTR and International CTR, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with the relevant regulations relating to receipt of funds to credit a frozen account or the transfer of funds from a frozen account.</p> <p>This amendment is unlikely to have a material impact on financial institutions reporting obligations; although the scope of what is to be reported is now broader.</p>

# The Cyber (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Scope of the Regulations	Regulation 3(1) and (7) of the Cyber (Sanctions) (EU Exit) Regulations 2020 No. 597 ("UK Cyber SI")	Article 1(1) and (2) of EU Council Regulation 2019/796 ("EC Regulation 2019/796")  Regulation 1(2) of The Cyber-Attacks (Asset-Freezing) Regulations 2019 No. 956 ("EU Cyber SI")	(b)	<p><b>Potentially High Impact</b></p> <p>EC Regulation 2019/796 has a requirement for the cyber threat to be external (i.e. outside the Union) which is not a requirement in the UK Cyber SI, which captures cyber activity taking place both outside and within the UK.</p> <p>The UK Cyber SI is wider in scope than the old EU Cyber SI. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more cyber activity is sanctioned under the UK Cyber SI.</p>
Purpose of the Regulations	UK Cyber SI, Reg. 4(2)	EC Regulation 2019/796, article 1(1) and article 2	(c)	<p><b>Potentially High Impact</b></p> <p>EC Regulation 2019/796 applies to "cyber-attacks with a significant effect, including attempted cyber-attacks with a potentially significant effect, which constitute an external threat to the Union or its Member States". The factors which determine whether an attack has had a (or potential) "significant effect" are defined in article 2 as including:</p> <p>(a) <i>"the scope, scale, impact or severity of disruption caused, including to economic and societal activities, essential services, critical State functions, public order or public safety;</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) <i>the number of natural or legal persons, entities or bodies affected;</i></p> <p>(c) <i>the number of Member States concerned;</i></p> <p>(d) <i>the amount of economic loss caused, such as through large-scale theft of funds, economic resources or intellectual property;</i></p> <p>(e) <i>the economic benefit gained by the perpetrator, for himself or for others;</i></p> <p>(f) <i>the amount or nature of data stolen or the scale of data breaches; or the nature of commercially sensitive data accessed</i></p> <p>.Under the UK Cyber SI, the purpose of the regulations is to further the prevention of "relevant cyber activity" which is defined as activity which:</p> <p>(a) <i>"undermines, or is intended to undermine, the integrity, prosperity or security of the United Kingdom or a country (4) other than the United Kingdom,</i></p> <p>(b) <i>directly or indirectly causes, or is intended to cause, economic loss to, or prejudice to the commercial interests of, those affected by the activity,</i></p> <p>(c) <i>undermines, or is intended to undermine, the independence or effective functioning of—</i></p> <p style="padding-left: 20px;">(i) <i>an international organisation, or</i></p> <p style="padding-left: 20px;">(ii) <i>a non-governmental organisation or forum whose mandate or purposes relate to the governance of international sport or the Internet, or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(d) <i>otherwise affects a significant number of persons in an indiscriminate manner" (Reg. 4(2)).</i></p> <p>There is no express provision regarding the purpose of the regulations in the EU Cyber SI.</p> <p>The purpose of the UK Cyber SI is not qualified by a need to have "significant effect" and is broader in scope than the EC Regulation 2019/796. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more cyber activity is sanctioned under the UK Cyber SI.</p>
Asset freeze in relation to designated persons	UK Cyber SI, Reg. 11(5)	EU Cyber SI, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Cyber SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK Cyber SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	UK Cyber SI, Reg. 11(6)	EU Cyber SI, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Cyber SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p> <p>This new language is similar in effect to the concept of ownership and control set out in</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>previous non-binding guidance provided by the EU<sup>10</sup>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	UK Cyber SI, Reg. 11(7)	EU Cyber SI, Reg. 3(1)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Cyber SI provides that funds or economic resources are treated as owned, held, or controlled by a designated person if they are "<i>owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Cyber SI to include a new express prohibition on dealing with the funds or economic resources of entities owned or controlled by such designated persons.</p>
Prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 12(4)	EU Cyber SI, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making <u>funds</u> available directly or indirectly to designated persons is extended by the UK Cyber SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>No such provision is contained in the EU Cyber SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>

<sup>10</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 14 (4)	EU Cyber SI, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making <u>economic resources</u> available to designated persons, the UK Cyber SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>No such provision is contained in the EU Cyber SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	UK Cyber SI, Reg. 7	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>The UK Cyber SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

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				<p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</i></p> <p>The EU Cyber SI and EC Regulation 2019/796 do not provide a definition of ownership and control, but the EU has provided non-binding guidance on the definition.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>This may have an impact on financial institutions to the extent the it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 18(1) and (2)	EU Cyber SI, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Cyber SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) <i>is not the designated person, and</i></p> <p>(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 18(3)	EU Cyber SI, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Cyber SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK Cyber SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK Cyber SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources	UK Cyber SI, Reg. 18(5)	EU Cyber SI, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Cyber SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				<p>The scope of this exception has been amended in the new UK Cyber SI. Under the new UK Cyber SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 20(3), Schedule 2(6)	EU Cyber SI, Reg. 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Cyber SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p> <p>The UK Cyber SI provides that a Treasury Licence is required to enable, the use by a designated person's frozen funds or economic resources, the implementation or satisfaction (whether in whole or in part) of a judicial, administrative or arbitral decision or lien provided the funds or economic resources used are the subject of the decision or lien, the decision or lien was made or established prior to the person becoming designated, and the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person (Schedule 2(6)).</p> <p>This would impact financial institutions seeking to credit frozen accounts with payments due under judicial, administrative, or arbitral decisions in that they would under, the new UK Cyber SI, need to apply for a licence to do this.</p>
Exemptions to asset freeze and prohibition on	UK Cyber SI, Reg. 18(6)	N/A	(b)	<p><b>Low Impact</b></p>

This review does not constitute legal advice and should not be relied upon by any parties.

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons				<p>The UK Cyber SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:<sup>[(1)]</sup> <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <ul style="list-style-type: none"> <li><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000 (7),</i></li> <li><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000 (8), and</i></li> <li><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK Cyber SI, Reg. 19	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK Cyber SI sets out the following new exception for acts done for purposes of national security or prevention of serious crime.</p> <p><i>(1) "Where an act would, in the absence of this paragraph, be prohibited by regulation 9(2) (confidentiality) or any prohibition in Part 3 (Finance), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—</i></p> <ul style="list-style-type: none"> <li><i>(a) national security, or</i></li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere.</p> <p>(2) Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (Information and records), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—</p> <p>(a) national security, or</p> <p>(b) the prevention or detection of serious crime in the United Kingdom or elsewhere."</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK Cyber SI, Reg. 20(3) and Schedule 2	EU Cyber SI, Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The UK Cyber SI limits the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK Cyber SI. Similar restrictions did not expressly apply under the EU Cyber SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK Cyber SI, Reg. 20(3) and Schedule 2(8)	EU Cyber SI, Reg. 9  EC Regulation 2019/796, article 4-article 7	(b)	<p><b>Low Impact</b></p> <p>As stated above, Schedule 2 of the UK Cyber SI provides a list of circumstances in which the Treasury may issue a licence authorising acts by a particular person. The list of purposes set out in Schedule 2 reflects the list of possible derogations contained in the EC Regulation 2019/796 except for the following purpose which is listed in the UK Cyber SI only:</p> <p><i>"Extraordinary Situations</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>To enable anything to be done to deal with an extraordinary situation."</i></p> <p>Whilst this change is unlikely to have a material impact on the day to day obligations of financial institutions, it arguably broadens the scope of the licencing regime which could have an impact on financial institutions who are faced with extraordinary situations and are granted a licence by the Treasury authorising a specific act.</p>
Treasury Licences	UK Cyber SI, Reg. 20(4)	EU Cyber SI, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Cyber SI the Treasury may vary or revoke a licence at any time. The new UK Cyber SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK Cyber SI, Reg. 21	EU Cyber SI, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Cyber SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK Cyber SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Designation of Persons	UK Cyber SI, Reg. 9	N/A	(b)	<p><b>Low Impact</b></p> <p>Under the UK Cyber SI, the Secretary of State may inform only certain persons of a designation, variation or revocation of the content of a statement of reasons and may specify that such information is to be treated as confidential. It is an offence to disclose this information knowing or with reasonable cause to suspect that the information is confidential except if the disclosure is made with "lawful authority".</p> <p>No such offence exists under the EU Cyber SI.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions unless they obtain information that is to be treated as confidential.
Information Obligations	UK Cyber SI, Reg. 23(5) and 20(3) and Schedule 2	EU Cyber SI, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Cyber SI provided that relevant institutions had to inform the Treasury without delay if it credited a frozen account with:</p> <p>(a) <i>"Interest or other earnings due on the account;</i></p> <p>(b) <i>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or</i></p> <p>(c) <i>Payments due under judicial, administrative or arbitral decisions rendered in a Member State or enforceable in the UK".</i></p> <p>Under the UK Cyber SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 18(4) (receipt of funds to credit a frozen account) or regulation 18(6) (transfers funds from a frozen account).</p> <p>Further, under the UK Cyber SI, a Treasury licence is required to credit a frozen account (or otherwise use funds in a frozen account to make):</p> <ul style="list-style-type: none"> <li>with payments due arising from pre-existing obligations due under contracts or other agreements (Schedule 2(9)); or</li> <li>to implement or satisfy pre-existing judicial, administrative or arbitral decisions or liens (Schedule 2(6)).</li> </ul> <p>This would impact financial institutions seeking to credit frozen accounts with payments arising from pre-existing obligations or due under judicial, administrative or arbitral decisions in that they would under, the new UK Cyber SI, need to apply for a licence to do these activities.</p>

# The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Scope of the Regulations	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 3(1) and 3(7)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 1(2)	(b)	<p><b>Medium Impact</b></p> <p>The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017 (the "EU DPRK SI") provided that an offence under these Regulations may be committed by conduct wholly or partly outside the UK.</p> <p>The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019 (the "UK DPRK SI") provides that an offence under these Regulations may be committed by conduct both within and outside the UK.</p> <p>The UK DPRK SI is wider in scope than the EU DPRK SI. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more activity is sanctioned under the UK DPRK SI.</p>
Asset freeze in relation to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 13(1)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 3(1)  [Article 34(1) Council	(c)	<p><b>Low Impact</b></p> <p>The EU DPRK SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new UK DPRK SI to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulation (EU) 2017/1509 ("EU Council Regulation")]		
Asset freeze in relation to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 13(5)(b)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU DPRK SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK DPRK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 13(6)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK DPRK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p> <p>This new language is similar in effect to the concept of ownership and control set out in previous non-binding guidance provided by the EU<sup>11</sup>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in	The Democratic	The Democratic	(b)	<b>Potentially High Impact</b>

<sup>11</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
relation to designated persons	People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 13(7)	People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 3		<p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK DPRK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU DPRK SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Prohibition on making funds and economic resources available to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 14(4)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK DPRK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>No such provision is contained in the EU DPRK SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 16(4)	The Democratic People's Republic of Korea (European Union Financial	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making <u>economic resources</u> available to designated persons, the UK DPRK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
persons		Sanctions) Regulations 2017, Reg. 6		<p>No such provision is contained in the EU DPRK SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 7	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>The EU DPRK SI does not define control or ownership, but the EU has provided non-binding guidance on this point<sup>12</sup>.</p> <p>The UK DPRK SI simplifies the meaning of "owned or controlled directly or indirectly", so that it applies if either of the following two conditions is met:</p> <p>(1) The first condition is that 'P':</p> <ul style="list-style-type: none"> <li>(a) holds directly or indirectly more than 50% of the shares in a non-natural person 'C',</li> <li>(b) holds directly or indirectly more than 50% of the voting rights in C, or</li> <li>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</li> </ul> <p>(2) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</p>

<sup>12</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The first condition broadly matches the definition of ownership within the EU non-binding guidance as being in possession of 50% or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein.</p> <p>Schedule 1 to the UK DPRK sets out new detailed rules for interpreting the first condition and how to treat:</p> <ul style="list-style-type: none"> <li>joint interests;</li> <li>joint arrangements;</li> <li>calculating shareholdings;</li> <li>voting rights;</li> <li>rights to appoint/remove members of the board;</li> <li>shares/rights held indirectly;</li> <li>shares held by nominees;</li> <li>rights treated as held by person who controls their exercise;</li> <li>rights exercisable only in certain circumstances; and</li> <li>rights attached to shares held by way of security.</li> </ul> <p>The second condition provides for a potentially wider application of the ownership and control dependent upon the specific circumstances of the case.</p> <p>This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 81(1)-(2)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK DPRK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 13 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on	The Democratic People's Republic of Korea	The Democratic People's Republic of	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2019, Reg. 81(3)	Korea (European Union Financial Sanctions) Regulations 2017, Reg. 9(1)		<p>The EU DPRK SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK DPRK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK DPRK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 81(5)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 9(2)	(c)	<p><b>Low Impact</b></p> <p>The EU DPRK SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK DPRK SI. Under the new UK DPRK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to <i>a relevant institution</i> for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on	The Democratic People's Republic of Korea	The Democratic People's Republic of	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2019, Reg. 81(6)	Korea (European Union Financial Sanctions) Regulations 2017, Reg. 9		<p>The UK DPRK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:<sup>[(1)]</sup> <i>The prohibitions in regulations 13 to 15 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 81(7)-(10)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 8A	(c)	<p><b>Low Impact</b></p> <p>The EU DPRK SI provided that the prohibitions on asset-freeze, dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds or economic resources available to or for the benefit of a designated person, relating to "<i>persons, entities or bodies listed in Annex XVII of the Council Regulation</i>" did not apply to the activities of a diplomatic or consular mission of the Democratic People's Republic of Korea.</p> <p>The scope of this exception has been slightly restricted in the new UK DPRK SI. The new exception no longer applies to "<i>persons, entities or bodies listed in Annex XVII of the Council Regulation</i>" but instead only to transactions with the Foreign Trade Bank of the Democratic People's Republic of Korea at any time when that bank is a designated person, or transactions</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				with the Korean National Insurance Company at any time when that company is a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions.
Prohibitions relating to investments, financial services and financial markets, including the transfer of funds and the sale/purchase of bonds	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Regs. 18-22, 28 and 30	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 10(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibitions relating to investments, financial services and financial markets, the UK DPRK SI now provides that a person falls within the scope of Regulation 18(2) <i>if they are a credit or financial institution that is not domiciled in the DPRK "but is owned or controlled directly or indirectly (within the meaning of regulation 7) by a person domiciled in the DPRK"</i> (Reg.18(2)).</p> <p>This new language extends the previous prohibition on UK credit or financial institutions providing financial services to persons falling within Regulation 10(2) of the EU DPRK SI which covered <i>"a credit or financial institution that is not domiciled in the Democratic People's Republic of Korea but is controlled by a person, entity or body domiciled in the Democratic People's Republic of Korea"</i> by expressly including within the scope of the prohibition credit or financial institutions which are owned by a person, entity or body domiciled in the DPRK.</p> <p>This new language is similar in effect to the concept of ownership and control set out in previous non-binding guidance provided by the EU<sup>13</sup> and is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on credit and financial institutions in relation to	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations	The Democratic People's Republic of Korea (European	(c)	<p><b>Low Impact</b></p> <p>The EU DPRK SI previously provided that the prohibition on UK credit or financial institutions establishing correspondent banking relationships or joint ventures with applied only to the establishment of <i>"new"</i> relationships or ventures.</p>

<sup>13</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
accounts and correspondent banking relationships	2019, Reg.18(1)(b)-(c) and Reg. 26(3)	Union Financial Sanctions) Regulations 2017, Reg. 10(1)(b)-(c)		<p>The UK DPRK SI removes the word "new" but this does not appear to be material given the nature of the activities covered by the prohibition in Regulation 18(1) which relate to opening accounts or establishing relationships, which by their nature are "new".</p> <p>Regulation 26(2) of the UK DPRK SI introduces the express prohibition of establishing, maintaining or operating a joint venture or a co-operative entity with a person falling within the categories set out in Regulation 26(1). Although this prohibition is not expressly set out in the EU Financial Sanctions SI, Regulation 16 of that SI required credit or financial institutions meeting certain criteria to terminate any joint venture with the same category of people, which had the same effect in practice.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on participating in business arrangements with designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 24(1)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 16	(b)	<p><b>Low Impact</b></p> <p>The EU DPRK SI provided that a person ("P") must not participate, directly or indirectly, in business arrangements with a person who P knows is a designated person.</p> <p>The new UK DPRK SI prohibition is slightly more restrictive as it now additionally covers if P has a reasonable cause to suspect that the person is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on investments and commercial activities with designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 26	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations	(b)	<p><b>Low Impact</b></p> <p>The EU DPRK SI provided that a person ("P") must not accept or approve investment in commercial activities made by a designated person (falling within one of the categories set out in Reg. 18(6)), or provide financing or financial assistance to such a person (or any person domiciled in DPRK).</p> <p>The new UK DPRK SI prohibition is slightly more restrictive as it now additionally covers</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		2017, Reg. 18		<p>situations in which P has a reasonable cause to suspect that the person is a person designated under this regulation.</p> <p>Although this change may increase the number of potential investments/ transactions now caught by this regulation, it is unlikely to have a material impact on the obligations of financial institutions. Most of the other restrictive measures in the EU DPRK SI are applicable when a person knows or reasonably suspects that they are dealing with (directly or indirectly) a designated person or funds/economic resources owned or controlled by such a person. As such, many financial institutions are already likely to have relevant controls in place and to be unwilling to accept or approve investments which they have reasonable cause to suspect involve a designated person (from a risk-appetite perspective).</p>
Prohibition on investments and commercial activities with designated persons	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 26(4)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 18(4)	(c)	<p><b>Low Impact</b></p> <p>Regulation 2(2)(b) of the Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020 introduces the prohibition to <b>maintain</b> "any ownership interest (a) a person falling within paragraph 1(a), (b) or (d) to (f), or (b) a person domiciled in the DPRK, if P knows or has reasonable cause to suspect that P is so doing" (taking, acquiring or extending such an ownership interest are already prohibited under the UK DPRK SI).</p> <p>The amendment to the UK DPRK SI is slightly more restrictive than that covered by the EU DPRK SI as it expressly includes a prohibition on maintaining investments, which the EU DPRK SI does not, and it is not specific to investments in persons undertaking certain activities. The prohibition in the UK DPRK SI applies to all investments in any of the persons listed in Regulation 26(1)(a), (b) or (d) to (f) and not just those involved in the nuclear-related, WMD or ballistic missile-related programmes of the DPRK, or the mining, refining or chemical industry.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Designation of Persons	The Democratic People's Republic of Korea	N/A	(b)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Secretary of State may inform only certain persons of a designation, variation or revocation of the content of a statement of reasons and may specify that such</p>

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	(Sanctions) (EU Exit) Regulations 2019, Reg. 9			<p>information is to be treated as confidential. It is an offence to disclose this information knowing or with reasonable cause to suspect that the information is confidential except if the disclosure is made with "lawful authority".</p> <p>No such offence exists under the EU DPRK SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions unless they obtain information that is to be treated as confidential.</p>
Information Obligations	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 24(5)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 9(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU DPRK SI provided that relevant institutions had to inform the Treasury without delay if it credited a frozen account with:</p> <p>(a) <i>"Interest or other earnings due on the account; or</i></p> <p>(b) <i>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account"</i>.</p> <p>Under the UK DPRK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 18(4) (receipt of funds to credit a frozen account) or regulation 18(6) (transfers funds from a frozen account).</p> <p>Further, under the UK DPRK SI, a Treasury licence is required to credit a frozen account (or otherwise use funds in a frozen account to make):</p> <p>with payments due arising from pre-existing obligations due under contracts or other agreements (Schedule 2(9)); or</p> <p>to implement or satisfy pre-existing judicial, administrative or arbitral decisions or liens (Schedule 2(6)).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This would impact financial institutions seeking to credit frozen accounts with payments arising from pre-existing obligations or due under judicial, administrative or arbitral decisions in that they would under, the new UK DPRK SI, need to apply for a licence to do these activities.
Trade Controls	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Regs. 35-39	Export Control (North Korea Sanctions) Order 2018/200	(b)	<p><b>Low Impact</b></p> <p>The UK DPRK SI contains express restrictions on the export of military goods to a designated person and the supply or delivery of military goods from a third country to a designated person. There is also a restriction on making military goods or technology available or transferring military technology to or for the benefit of designated persons. These restrictions are currently contained in the Export Control (North Korea Sanctions) Order 2018/200 and not the EU DPRK SI. The Export Control (North Korea Sanctions) Order 2018/200 is revoked by Regulation 130 of the UK DPRK SI and will have no effect once the UK DPRK SI comes into force.</p> <p>Designated persons for the purposes of these controls may not be the same as designated persons which are the subject of the financial provisions referred to above.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Regs. 42 and 55	Export Control (North Korea Sanctions) Order 2018/200	(b)	<p><b>Low Impact</b></p> <p>New restrictions are imposed in the UK DPRK SI concerning the provision of "brokering services" in relation to arrangements concerning the export, supply, delivery and transfer of restricted goods and technology and gold, precious metals or diamonds. These restrictions are currently contained in the Export Control (North Korea Sanctions) Order 2018/200 and not the EU DPRK SI. The Export Control (North Korea Sanctions) Order 2018/200 is revoked by Regulation 130 of the UK DPRK SI and will have no effect once the UK DPRK SI comes into force.</p> <p>Designated persons for purposes of these controls may not be the same as designated persons</p>

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				<p>which are the subject of the financial provisions referred to above.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 88 and Schedule 3	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 23	(b)	<p><b>Low Impact</b></p> <p>The UK DPRK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 3 of the UK DPRK SI. Similar restrictions did not expressly apply under the EU DPRK SI, which stated only that licences may be subject to conditions but did not specify that licences would only be granted for specific purposes.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 88 and Schedule 3(9)	Articles 35-36 Council Regulation (EU) 2017/1509	(b)	<p><b>Low Impact</b></p> <p>As stated above, Schedule 3 of the UK DPRK SI provides a list of circumstances in which the Treasury may issue a licence authorising acts by a particular person. The list of purposes set out in Schedule 3 reflects the list of possible derogations contained in the EU Financial Sanctions Regulation (but not set out in the EU DPRK SI) except for the following purpose which is listed in the UK DRPK SI only:</p> <p><i>"Extraordinary Situations"</i></p> <p>To enable anything to be done to deal with an extraordinary situation."</p> <p>Whilst this change is unlikely to have a material impact on the day to day obligations of financial institutions, it arguably broadens the scope of the licensing regime which could have an impact on financial institutions who are faced with extraordinary situations and are granted a licence by the Treasury authorising a specific act.</p>
Treasury Licences	The Democratic	The Democratic	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 93(5)	People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 23(3)		Under the EU DPRK SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.  This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury Licences	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 95(1)	The Democratic People's Republic of Korea (European Union Financial Sanctions) Regulations 2017, Reg. 23(5)	(c)	<b>Low Impact</b>  Under the EU DPRK SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury Licences	The Democratic People's Republic of Korea (Sanctions) (EU Exit) Regulations 2019, Reg. 95(1)	N/A	(b)	<b>Low Impact</b>  Under the EU SI a licence is now available to enable the use of frozen funds or economic resources in order to implement or satisfy (in whole or in part) a judicial, administrative or arbitral decision or lien, provided that:  <i>(a) "the funds or economic resources so used are the subject of the decision or lien,</i>  <i>(b) the decision or lien—</i>  <i>(i) was made or established before the date on which the person became a designated person, and</i>

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				<p><i>(ii) is enforceable in the United Kingdom, and</i></p> <p>(c) the use of the frozen funds or economic resources does not directly or indirectly benefit any other designated person ".</p> <p>The use of frozen funds or economic resources for such purposes was prohibited under the EU DPRK SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, although this change will impact financial institutions in that the use of frozen funds or economic resources in order to implement or satisfy (in whole or in part) a judicial, administrative or arbitral decision or lien is now permissible under licence.</p>

# The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433 (the "UK SI")</p> <p>Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511 (the "EU Financial Services SI")</p> <p>EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo (the "EU Regulation")</p> <p>EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</p> <p>The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015 (the "EU Export Control SI")</p> <p>Export Control Order 2008/3231 (the "Export Control Order")</p> <p>Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</p>
Asset freeze in relation to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 12(1)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Reg.	(a)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled, directly or indirectly, by a designated person</i>", or "<i>owned, held or controlled by a third party acting on the designated person's behalf or at the designated person's direction</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		3(1)		<p>The substantive differences are:</p> <p>(a) the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person – this is unlikely to have a material impact on the obligations of financial institutions; and</p> <p>(b) the UK SI has removed the limb of the prohibition relating to dealing with funds or economic resources "<i>owned, held or controlled by a third party acting on the designated person's behalf or at the designated person's direction</i>". Whilst this scenario is captured by Reg. 12(7) – (discussed below) – there are potential cases which would have been caught under the EU Financial Services SI (e.g., assets held by agents who may not be "controlled" by the designated person) which may not be captured under the UK SI.</p>
Asset freeze in relation to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 12(5)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>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</i>".</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise)</i>". This largely mirrors the language of the EU Financial Services SI, however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that in most cases the UK SI's language of "<i>exchanging</i>" or "<i>using the economic resources in exchange for...</i>" will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of</p>

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				<p>"pledging them as security or otherwise". In theory, this creates a greater scope for debate over what constitutes "use... in exchange for funds", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "economic resources" in section 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "exchange" of economic resources; it simply refers to "assets...which can be used to obtain funds" so the use of the word "exchange" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 12(6)	EU Guidance 8519/18	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "owned, held or controlled" stating that they include:</p> <p>(a) <i>"funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources" (emphasis added); and</i></p> <p>(b) <i>"any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in possession of the person".</i></p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that "holding or controlling" should be construed as to comprise of situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity;</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g. for the purpose of managing a specific bank account); or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear that the UK SI casts a wider net on the meaning of "owned, held or controlled" as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 12(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person</i>".</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance, on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity"</i> (emphasis added).</p> <p>The new language in the UK SI – which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons – mirrors EU Guidance. However under the EU Regulation there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds and economic resources available to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Regs. 13 and 15	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 13 and 15 – which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic	The Democratic Republic of the Congo	Democratic Republic of the Congo (Asset-	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant</i></p>

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resources available for the benefit of designated persons	(Sanctions) (EU Exit) Regulations 2019/433, Regs. 14 and 16	Freezing) Regulations 2012/1511, Regs. 5 and 7		<p><i>financial benefit</i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>". The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we could see a divergence between the EU and UK concepts of "making available".</p>
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, section 44	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 7	(a)(c)	<p><b>Low Impact</b></p> <p>Art. 7 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under section 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Ownership and control provisions	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 7 and Sch. 1	-	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>[...]</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to</u> the ability to appoint or remove a majority of the board:</p>

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				<p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p> <p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p> <p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch all, as shown in subsection (4) above,</p>

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				<p>and so likely having regard to 'all the circumstances' will include the factors above. However, on the fact of it, the wording of the UK SI presents a much more limited view of what constitutes 'control'.</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Schedule 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <p>pursuant to paragraph 2 of Schedule 1, persons who hold a share or right jointly are each treated as holding that share or right;</p> <p>pursuant to paragraph 3 of Schedule 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see paragraph (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person holding rights or exercising powers in order for the control test to be met.</p> <p>Paragraph 4 of Schedule 1 defines a person holding "more than 50% of the shares" in a person to be a person holding shares comprised in the issued share capital of that person "of a nominal value exceeding (in aggregate) 50% of that share capital". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than "50% of the proprietary" rights in a person.</p> <p>Paragraph 9 of Schedule 1 deals with the meaning of shares or rights being held "<u>indirectly</u>". This occurs where a person has a "majority stake" in another person and that other person</p>

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				<p>holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, paragraph 9(4) of Schedule 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paragraphs 10 and 11 of Schedule 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in paragraph 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions or in that person's interests (except for purposes of preserving or exercising security)).</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 31(3)	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with interest or other earnings due on an account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
persons		persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 5(1)(a)		<p>Secondly, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 31(5)	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 5(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.</p>
Exceptions to asset freeze and prohibition on	The Democratic Republic of the Congo	-	(c)	<b>Low Impact</b>

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making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2019/433, Reg. 31(6)			<p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>[(1)] The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <ul style="list-style-type: none"> <li><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></li> <li><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></li> <li><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 31	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with	(b)	<p><b>Medium Impact</b></p> <p>The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted (and there is no equivalent carried across in respect of judicial, administrative or arbitral decisions rendered in the UK or enforceable in the UK).</p>

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		regard to the Democratic Republic of the Congo, Art. 5(1)(c)		
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 32	-	(b)	<p><b>Low Impact</b></p> <p>Reg. 32 contains a new exception for acts done for the purposes of national security or prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 33(2) - (3)	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences in respect of asset freeze restrictions are split into those that apply in relation to a non-UN designated person and those that apply in relation to a UN designated person.</p> <p>For both UN designated and non-UN designated persons:</p> <p style="padding-left: 40px;">A licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains (see Sch. 2, Part 2, para. 2). However, (i) the types of "<i>basic needs</i>" has been split into those for an individual and those for an entity, (ii) the language appears to focus on the "<i>needs</i>" for food, etc. rather than "<i>payments for</i>" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "<i>basic needs</i>" for entities such as "<i>the payment of reasonable fees for the provision of property management services</i>" and the "<i>payment of</i></p>

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		Congo, Arts. 3, 4 and 4b		<p><i>remuneration, allowances or pensions of employees</i>". There is also a fairly broad clarification of what constitutes a "<i>dependent family member</i>" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</p> <p>A licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 2, Part 2, para. 3). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "<i>reasonable</i>" (albeit this is in accordance with the practice OFSI and applies already).</p> <p>A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 2, Part 2, para. 4). However, again, such fees and service charges are now required to be "reasonable".</p> <p>A licence to enable payment of extraordinary expenses remains (see Sch. 2, Part 2, para. 5). However, there is a new qualification in that the expenses must be of a designated person.</p> <p>A new licensing purpose has been introduced to enable the functions of diplomatic missions or consular posts to be carried out (see Sch. 2, Part 2, para. 7).</p> <p>For non-UN designated persons the following new licensing purposes also apply (see Sch. 2, Part 3):</p> <p>A licence for humanitarian purposes remains (see Sch. 2, Part 3, para. 8), however its wording is broader in that it may be granted to "enable anything to be done in connection with the performance of any humanitarian assistance activity."</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The examples of "delivering or facilitating the delivery of assistance, including medical supplies and food, or the transfer of humanitarian workers and related assistance or for evacuations from DRC" are no longer listed.</p> <p>New licensing purposes have been introduced for satisfaction of prior obligations (see Sch. 2, Part 3, para. 9) and dealing with extraordinary situations (see Sch. 2, Part 3, para. 10). Note that "extraordinary situations" is not defined so is potentially flexible, but this is unclear.</p> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 35(5)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>
Treasury Licences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 36(1)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Democratic Republic of the Congo (Sanctions) (EU	Democratic Republic of the Congo (Asset-Freezing)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with payments due under contracts, agreements or</p>

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	Exit) Regulations 2019/433, Reg. 39(5)	Regulations 2012/1511, Reg. 8(3)		<p>obligations that were concluded or arose before the account became a frozen account, or (ii) where funds are transferred to the account. The former notification requirement has been deleted from the UK SI.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 31(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 31(6). The latter notification requirement is a new addition.</p>
Information Obligations	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 39(4)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Sch. 1, para. 1(4)	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 39(4) that where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 41(6)	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Sch. 1, para. 2(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, the Treasury was permitted to request "<i>any person in or resident in the United Kingdom</i>" to provide relevant information, whereas under the UK SI, this has been widened to any person "<i>if the Treasury believe that the person may be able to provide the information</i>".</p>
Information Obligations	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg.	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511,	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include "<i>detecting or obtaining evidence of the commission of an offence...</i>" (emphasis added).</p>

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	41(7)(c)	Sch. 1, para. 2(5)(c)		This is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg.47	Democratic Republic of the Congo (Asset-Freezing) Regulations 2012/1511, Sch. 1, para. 5  Export Control Order 2008/3231, Art. 43	(c)	<p><b>Low Impact</b></p> <p>In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.</p> <p>For example, information may be disclosed for any purpose stated in Reg. 4 (i.e., the purposes of the UK SI), and to "<i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i>".</p>
Trade Controls	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 21	Export Control Order 2008/3231, Art. 3	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the export of military goods to a <u>non-governmental person</u> operating in the Democratic Republic of Congo. This is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy). However, these exports would be caught by the general prohibition on the export of military goods (subject to exceptions and licensing) contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day) – this is a broader prohibition, not limited to "non-governmental persons". The UK SI provisions will sit alongside the provisions in the Export Control Order.</p> <p>The narrower, standalone prohibition in the UK SI is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>

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Trade Controls	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Regs. 22-24	Export Control Order 2008/3231, Art. 20	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces new prohibitions on:</p> <p>the direct or indirect supply or delivery of military goods from a third country to a non-governmental person operating in the Democratic Republic of the Congo (Reg. 22),</p> <p>directly or indirectly making military goods or technology available to a non-governmental person operating in the Democratic Republic of the Congo (Reg. 23); and</p> <p>the transfer of military technology to a non-governmental entity operating in the Democratic Republic of the Congo (Reg. 24);</p> <p>unless that person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for a non-governmental person in the Democratic Republic of the Congo. These prohibitions are not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy).</p> <p>However, this prohibition would be captured by the general prohibition (subject to exceptions and licensing) contained in the Export Control Order at Art. 20 (and the defence for "no reasonable suspicion" in Art. 34). The Export Control Order prohibits the supply or delivery, an agreement to supply or deliver, and any act calculated to promote the supply for delivery to the Democratic Republic of Congo (being an "embargoed destination"). This is a broader prohibition, not limited to "non-governmental persons". The UK SI provisions will sit alongside this.</p> <p>As there will likely be a large degree of substantive overlap between these prohibitions (which will run in parallel after Exit Day), there is unlikely to be a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>

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Trade Controls	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 25	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 1a(1)(a)  The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015, Reg. 4(a)	(c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a prohibition on the direct or indirect provision of technical assistance related to the goods and technology listed in the Common Military List, or related to the provision, manufacture, maintenance and use of goods included in that list, to any non-governmental entity or person operating in the territory of the Democratic Republic of Congo. This was transposed into UK law by the EU Export Control SI.</p> <p>The new UK SI contains a similar prohibition, subject to two changes:</p> <p>(a) it does not include the reference to "<i>technical assistance...related to the provision, manufacture, maintenance or use of goods</i>". Therefore this technically applies a narrower prohibition, however as the definition of "technical assistance" in the UK SI includes technical support relating to the provision, maintenance and use of the goods or technology, this is unlikely to have any material impact (albeit there may be divergence in interpretation).</p> <p>(b) the EU Export Control SI stipulates that, for an offence to occur in relation to the provision of technical assistance, a person must be knowingly concerned in activity <u>with the intent to evade the prohibition</u> in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that the non-governmental person was operating in the DRC. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>

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Trade Controls	<p>The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 26</p> <p>Sanctions and Anti-Money Laundering Act 2018, section 61</p>	<p>EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 1a(1)(b)</p> <p>The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015, Reg. 4(b)</p>	(a) and (c)	<p><b>Medium Impact</b></p> <p>The UK SI's prohibition on providing financial services and funds related to military goods and technology to persons in or for use in the Democratic Republic of the Congo is broader than the equivalent provisions in the EU Regulation and EU Export Control SI. Specifically, there are restrictions on:</p> <ul style="list-style-type: none"> <li>(1) Directly or indirectly providing financial services to a non-governmental person operating in the Democratic Republic of the Congo, in pursuance of or in connection with an arrangement whose object or effect is: <ul style="list-style-type: none"> <li>(a) the export of military goods;</li> <li>(b) the direct or indirect supply or delivery of military goods;</li> <li>(c) directly or indirectly making military goods or military technology available to a person;</li> <li>(d) the transfer of military technology; or</li> <li>(e) the direct or indirect provision of technical assistance relating to military goods or military technology.</li> </ul> </li> <li>(2) Directly or indirectly making funds available to a non-governmental person operating in the Democratic Republic of Congo in pursuance of or in connection with an arrangement mentioned in (1) above.</li> <li>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) the export of military goods to a non-governmental person operating in the Democratic Republic of the Congo,</p> <p>(b) the direct or indirect supply or delivery of military goods to a non-governmental person operating in the Democratic Republic of the Congo,</p> <p>(c) directly or indirectly making military goods or military technology available to a non-governmental person operating in the Democratic Republic of the Congo,</p> <p>(d) the transfer of military technology to a non-governmental person operating in the Democratic Republic of the Congo, or</p> <p>(e) the direct or indirect provision of technical assistance relating to military goods or military technology to a non-governmental person operating in the Democratic Republic of the Congo.</p> <p>The key differences for financial institutions are as follows:</p> <p>(a) the UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services" which is non-exhaustively defined in the SAMLA as including insurance-related, banking and other financial services. The EU-listed examples of "financial assistance" are all explicitly covered by the SAMLA (that is, loans, export credit insurance, insurance and reinsurance) except for grants. It is not clear whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case;</p> <p>(b) it was prohibited under the EU Regulation/EU Export Control SI to provide financing or financial assistance for any provision of related brokering services to a non-</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>governmental entity or person operating in the DRC. This prohibition is not explicitly replicated; and/or</p> <p>(c) the EU Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance to designated persons related to military activities, a person must be knowingly concerned in the provision of such financing or financial assistance with the intent to evade the prohibition in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 27	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo,	(b)	<p><b>High Impact</b></p> <p>Change in Definition</p> <p>The UK SI's definition of "brokering services" is wider than in the EU Regulation (where it is, in summary limited to: (i) buying or selling; or (ii) the negotiation or arrangement of transactions for purchase, sale or supply of goods, technology or financial or technical services from a third country to another third country).</p> <p>Under the UK SI, it includes:</p> <p>Any services to secure, or otherwise in relation to, an arrangement, including (but not limited to):</p> <p>(a) the selection or introduction of persons as parties or potential parties to the arrangement;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Art. 1a(1)(a)  The Export Control (Democratic Republic of Congo Sanctions and Miscellaneous Amendments and Revocations) Order 2015, Reg. 4(a)		<ul style="list-style-type: none"> <li>(b) the negotiation of the arrangement;</li> <li>(c) the facilitation of anything that enables the arrangement to be entered into; and</li> <li>(d) the provision of any assistance that in any way promotes or facilitates the arrangement.</li> </ul> <p><u>Change in Prohibition</u></p> <p>Under the EU Regulation and the EU Export Control SI, the prohibition of brokering services is in relation to the provision, manufacture, maintenance and use of goods on the Common Military List to any non-governmental entity or person operating in the territory of the Democratic Republic of Congo.</p> <p>In the UK SI, the scope of the prohibition against brokering services is, on its face, wider. It covers arrangements where the object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the direct or indirect supply or delivery of military goods from a third country to a non-governmental person operating in the DRC;</li> <li>(b) directly or indirectly making military goods or technology available in a third country for direct or indirect supply or delivery to a non-governmental person operating in the DRC;</li> <li>(c) the transfer of, or making available for transfer, military technology from a place in a third country to a non-governmental person operating in the DRC;</li> <li>(d) the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or technology to a non-governmental person operating in the DRC;</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(e) the direct or indirect provision, in a non-UK country, of financial services to a non-governmental person operating in the DRC (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above));</p> <p>(f) directly or indirectly making funds available, in a non-UK country, to a non-governmental person operating in the DRC (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above)); or</p> <p>(g) the direct or indirect provision of funds from a non-UK country, where the arrangement or any other connected arrangement is within the scope of Reg. 26 (outlined above).</p> <p>As above, the UK SI does not contain a requirement on the prosecution to establish "intent to evade", which is currently required under the EU Export Control SI. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 28	-	(b)	<p><b>Medium Impact</b></p> <p>The UK SI includes a prohibition on the direct or indirect provision of technical assistance, armed personnel, financial services or funds, or brokering services where such provision enables or facilitates the conduct of armed hostilities in the Democratic Republic of Congo. This does not appear in the EU Regulation or the EU Financial Services SI or the EU Export Control SI.</p> <p>Given that "financial services" are non-exhaustively and broadly defined under the SAMLA as including insurance-related, banking and other financial services, this has a potentially wide application which could capture the transactions arranged by financial institutions. It is, however, a defence to show there was no knowledge, or reason to suspect, that the relevant</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				act would enable or facilitate the conduct of armed hostilities in the DRC.
Trade Controls	-	EU Council Regulation 1183/2005 imposing certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 1b	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contains derogations from the prohibitions on provision of (i) technical assistance or brokering services related to the goods and technology listed in the Common Military List or related to the provision, manufacture, maintenance and use of goods included on that list, to any non-governmental entity or person operating in the territory of the DRC (Art. 1a(1)(a)), and (ii) financing or financial assistance related to the sale, supply, transfer or export of goods and technology listed in the Common Military List for any sale, supply, transfer or export of such items, or for any provision of related technical assistance or brokering services to any non-governmental entity or person operating in the territory of the DRC (Art. 1a(1)(b)).</p> <p>The derogations provide that the competent authorities may authorise the provision of:</p> <p>(a) technical assistance, financing or financial assistance or brokering services related to arms and related materiel intended solely for the support of or use by Monusco;</p> <p>(b) technical assistance, financing or financial assistance or brokering services related to non-lethal military equipment intended solely for humanitarian or protective use, where the provision of such assistance or services has been notified in advance to the Sanctions Committee...</p> <p>(c) <i>technical assistance, financing or financial assistance or brokering services related to arms and related materiel intended solely for the support of or use by the African Union Regional Task Force;</i></p> <p>(d) <i>technical assistance, financing or financial assistance or brokering services related to other sales and supply of arms and related materiel, as approved in advance by the Sanctions Committee</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				The abovementioned derogations have not been carried forward into the UK SI albeit this is unlikely to have a significant impact on financial institutions.
Trade Control Licences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg.:35(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<b>Low Impact</b> Reg. 35(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be " <i>limited so as to expire on a specified date unless renewed</i> ". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.
Trade Control Licences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg.:37(2)	The Export Control Order 2008/3231, Art. 38(1)-(2)	(c)	<b>Low Impact</b> Pursuant to Reg. 37(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 37(2) there is no carve out from the offence where the licence is modified after completion of the act authorised. This means that the UK SI contains a broader prohibition.
Defences	The Democratic Republic of the Congo (Sanctions) (EU Exit) Regulations 2019/433, Reg. 30(2)	-	(b)	<b>Medium Impact</b> There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.  This will make it easier for financial institutions to rely upon defences.
Satisfaction of claims	-	EU Council Regulation 1183/2005 imposing	(a)	<b>Low Impact</b> The EU Regulation contains a restriction on the satisfaction of claims made by a designated person or person acting through or on behalf of a designated person in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		certain specific restrictive measures directed against persons acting in violation of the arms embargo with regard to the Democratic Republic of the Congo, Art. 7a		<p>whole or in part, by the measures imposed under the EU Regulation.</p> <p>This is not carried forward into the UK SI but is unlikely to have a material impact for financial institutions.</p>

# The Egypt (Asset-Freezing) Regulations 2011

Restrictive Measure / Category	UK SI reference	UK Amending SI Reference	Change to legal obligation	Impact
Interpretation	The Egypt (Asset-Freezing) Regulations 2011, Reg. 2(1)	The Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 3(2)	(a)	<p><b>Low Impact</b></p> <p>The Sanctions (Amendment) (EU Exit) Regulations 2019 amends the interpretation of the Egypt (Asset-Freezing) Regulations 2011 (the "UK SI") by deleting the wording in strikethrough format from Regulation 2(1) in the definition of "the Council Regulation":</p> <p><i>"means Council Regulation (EU) No. 270/2011 of 21 March 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt, and a reference to Annex I to that Regulation is to be construed as a reference to that Annex as amended from time to time".</i></p> <p>This change prevents any future EU changes to the EU sanction list of natural and legal persons, entities and bodies from altering the list in UK Law, but the EU list continues to be fully implemented in UK Law in its current form.</p>
Interpretation	The Egypt (Asset-Freezing) Regulations 2011, paragraph 5(1)(f) in the Schedule	The Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 3(3)	(a)	<p><b>Low impact</b></p> <p>The Sanctions (Amendment) (EU Exit) Regulations 2019 amends the interpretation of the Egypt (Asset-Freezing) Regulations 2011 (the "UK SI") by deleting the wording in strikethrough format from paragraph 5(1)(f) in the Schedule:</p> <p><i>"for the purpose of giving assistance or co-operation, pursuant to the Council Regulation, to—</i></p> <p><i>(a) any organ of the United Nations, or</i></p> <p><i>(b) any person in the service of the United Nations, the Council of the European Union, the European Commission or the Government of any country;"</i></p> <p>This change merely omits the reference to the Council Regulation and is not a significant</p>

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Restrictive Measure / Category	UK SI reference	UK Amending SI Reference	Change to legal obligation	Impact
				policy change.
Interpretation	The Egypt (Asset-Freezing) Regulations 2011, Reg. 2(1)	The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018, Reg. 59.	(a)	<p><b>Low Impact</b></p> <p>The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 amends the interpretation of the UK SI by deleting the wording in strikethrough format from Regulation 2(1) in the definition of "relevant institution":</p> <p>(a) <i>"a person who has permission under Part 4 of the 2000 Act (permission to carry on regulated activities);</i></p> <p>(b) <i><del>an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule as a result of qualifying for authorisation under paragraph 12 of that Schedule to accept deposits; or</del></i></p> <p>(c) <i>an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers."</i></p> <p>This change excludes EEA credit institutions who passported into the UK and obtained permission to accept deposits, from the UK implementation of EU Council Regulation. It should not impact the obligations of UK financial institutions.</p>

# The Global Human Rights Sanctions Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 11	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>Global Human Rights Sanctions Regulations 2020 (the "<b>Human Rights SI</b>") impose a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>There is no equivalent in the EU SI and this provision creates new obligations. The nature of the asset freeze imposed under the Human Rights SI does not differ materially from the existing asset freezes in force in the UK, and those introduced by new SIs made under the Sanctions and Money Laundering Act 2018 ("<b>SAMLA</b>"), which prohibit almost all transactions involving a designated person (or entities owned or controlled by such a person), save for limited exemptions and licensing grounds.</p> <p>The introduction of this prohibition creates a new category of designated persons which will need to be screened as part of the customer due diligence process. As the list is not determined by jurisdiction, financial institutions will need to ensure that their screening systems and controls are adapted to screen against this new list. Although the number of persons currently designated under the Human Rights SI is small, there is a possibility that this list may be expanded in the future, which could increase the compliance requirements for financial institutions.</p>
Asset freeze in relation to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 11(4)	N/A	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the Human Rights SI contains the extended definition of "deals with" economic resources which covers the pledge of economic resources as security or otherwise, in addition to "exchange, or use in exchange, for funds, goods or services".</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>There is no equivalent EU SI and so this provision creates new obligations. The prohibition does not differ materially from that in other existing EU SIs, and those introduced by new SIs made under the SAMLA, however.</p> <p>The introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Global Human Rights Sanctions Regulations 2020, Regulation 11(7)	N/A	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, new SAMLA SIs provide that funds or economic resources are to be "treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person".</p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates new obligations. The prohibition does not differ materially from those introduced by new SIs made under SAMLA, however, which use a definition of "owned or controlled by" which is wider in scope than that historically used in EU SIs.</p> <p>The introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions given the current limited scope of the Human Rights SI although there is a possibility that the impact will increase should the number of designated persons increase.</p>
Asset freeze in relation to designated persons	The Global Human Rights Sanctions Regulations 2020, Regulation 11(6)	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "owned, held or controlled" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>Although there is no equivalent EU SI and the provision creates a new prohibition, the language used in the Human Rights SI largely reflects the spirit of non-binding guidance provided by the EU<sup>14</sup> and other new SAMLA SIs.</p> <p>Given that the current number of persons designated under the Human Rights SI is small, the introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions in the immediate term. However, the structure of the regime introduced by the Human Rights SI, and the fact that the number of persons who are designated under this regime may increase exponentially and on short notice, mean that there is a potential for a high impact in the future.</p>
Prohibition on making funds and economic resources available to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 12(4)	N/A	(b)	<p><b>Low Impact</b></p> <p>The Human Rights SI introduces a prohibition on making funds available directly or indirectly to designated persons and provides expressly that funds are made available indirectly to a designated person if made "available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person".</p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates new obligations. The prohibition does not differ materially from those introduced by new SIs made under SAMLA, however, which introduce a prohibition on making funds or economic resources available to a person who is directly or indirectly owned or controlled by a designated person. This replaces the rebuttable presumption that exists under EU SI regimes<sup>15</sup> (although no EU SI is directly applicable to human rights).</p> <p>The introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions given the limited scope of the Human Rights SI but may have a more significant impact if the list of designated persons expands.</p>

<sup>14</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

<sup>15</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 14(4)	N/A	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person".</p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates new obligations. The prohibition does not differ materially from those introduced by new SIs made under SAMLA, however, which introduce a prohibition on making funds or economic resources available to a person who is directly or indirectly owned or controlled by a designated person. This replaces the rebuttable presumption that exists under EU SI regimes<sup>16</sup> (although no EU SI is directly applicable to human rights).</p> <p>The introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions given the limited scope of the Human Rights SI.</p>
Ownership and control provisions	The Global Human Rights Sanctions Regulations 2020, Reg. 7 and Schedule 1	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>The Human Rights SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of the following 2 conditions is met:</p> <p>(1) The first condition is that 'P':</p> <p>(a) holds directly or indirectly more than 50% of the shares in a non-natural person 'C';</p> <p>(b) holds directly or indirectly more than 50% of the voting rights in C; or</p>

<sup>16</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>).

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(2) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and, whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates new obligations. The prohibition does not differ materially from those introduced by new SIs made under SAMLA, however.</p> <p>Schedule 1 sets out new detailed rules for interpreting the first condition and how to treat:</p> <ul style="list-style-type: none"> <li>joint interests;</li> <li>joint arrangements;</li> <li>calculating shareholdings;</li> <li>voting rights;</li> <li>rights to appoint/remove members of the board;</li> <li>shares/rights held indirectly;</li> <li>shares held by nominees;</li> <li>rights treated as held by person who controls their exercise;</li> <li>rights exercisable only in certain circumstances; and</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>rights attached to shares held by way of security.</p> <p>This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied. Given the limited number of persons currently designated under the Human Rights SI, this new provision is unlikely to have a material impact in the immediate term although any hit identified by sanctions screening will have far-reaching consequences as the prohibition will apply to persons who are not designated themselves, but who are owned or controlled by a designated person. As the identity of these non-designated persons may not be immediately obvious, this prohibition may have a greater impact on financial institutions' obligations as they will have to ensure that systems and controls are able to identify any persons owned or controlled by a designated person.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 18(1)	N/A	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the Human Rights SI sets out the following exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates new obligations. The prohibition does not differ materially from those introduced by new SIs made under SAMLA, however.</p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>The introduction of this exemption is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. 18(3)	N/A	(b)	<p><b>Low Impact</b></p> <p>The Human Rights SI contains an exception which allows for the crediting of a frozen account with interest or other earnings due on an account expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. This exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This exception is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources	The Global Human Rights Sanctions Regulations 2020, Reg. 18(5)	N/A	(b)	<p><b>Low Impact</b></p> <p>The Human Rights SI provides that the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.  This exception is unlikely to have a material impact on the obligations of financial institutions.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Global Human Rights Sanctions Regulations 2020, Reg. [( 18(6)	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:1)] <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <ul style="list-style-type: none"> <li><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></li> <li><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></li> <li><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul> <p>This exception is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Global Human Rights Sanctions Regulations 2020, Reg. 20 and Schedule 2	N/A	(b)	<p><b>Low Impact</b></p> <p>The Human Rights SI limits the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the Human Rights SI.</p>

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				<p>There is no equivalent EU SI to the Human Rights SI and this provision creates a new mechanism to obtain a licence for certain acts. The provision does not differ materially from those introduced by new SIs made under SAMLA, however.</p> <p>The introduction of this prohibition is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Global Human Rights Sanctions Regulations 2020, Reg. 20 and Schedule 20(4)		(b)	<p><b>Low Impact</b></p> <p>Under the Human Rights SI the Treasury may vary, revoke or suspend a licence at any time.</p> <p>There is no equivalent EU SI to the Human Rights SI and this provision creates a new mechanism in relation to licences. The provision does not differ materially from those introduced by new SIs made under SAMLA, however.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Global Human Rights Sanctions Regulations 2020, Reg. 23		(b)	<p><b>Low Impact</b></p> <p>Under the Human Rights SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence (either for their own benefit or for anyone else's).</p> <p>There is no equivalent EU SI to the Human Rights SI, but the provision does not differ materially from those introduced by new SIs made under SAMLA, however.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Designation of Person	The Global Human Rights Sanctions Regulations 2020,	N/A	(b)	<p><b>Low Impact</b></p> <p>Under the Human Rights SI, the Secretary of State may inform only certain persons of a designation, variation or revocation of the content of a statement of reasons and may specify</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Reg. 9			<p>that such information is to be treated as confidential. It is an offence to disclose this information knowing or with reasonable cause to suspect that the information is confidential except if the disclosure is made with "lawful authority".</p> <p>There is no equivalent EU SI to the Human Rights SI although the provision does not differ materially from those introduced by new SIs made under SAMLA.</p> <p>This provision is unlikely to have a material impact on the obligations of financial institutions unless they obtain information that is to be treated as confidential.</p>
Information Obligations	The Global Human Rights Sanctions Regulations 2020, Reg. 25(5)	N/A	(b)	<p><b>Medium Impact</b></p> <p>The Human Rights SI provides that relevant institutions had to inform the Treasury without delay if it credits a frozen account with:</p> <p>(a) <i>"Interest or other earnings due on the account; or</i></p> <p>(b) <i>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account"</i>.</p> <p>Under the Human Rights SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 18(4) (receipt of funds to credit a frozen account) or regulation 18(6) (transfers funds from a frozen account).</p> <p>Further, under the Human Rights SI, a Treasury licence is required to credit a frozen account (or otherwise use funds in a frozen account to make):</p> <p>with payments due arising from pre-existing obligations due under contracts or other agreements (Schedule 2(9)); or</p> <p>to implement or satisfy pre-existing judicial, administrative or arbitral decisions or liens (Schedule 2(6)).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This would impact financial institutions seeking to credit frozen accounts with payments arising from pre-existing obligations or due under judicial, administrative or arbitral decisions in that they would need to apply for a licence to do these activities.

# The Guinea (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Power to designate	The Guinea (Sanctions) (EU Exit) Regulations 2019 (the "2019 UK SI") – Regs. 5 and 6, Regs. 8 and 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out specific designation criteria at Regulation 4 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2012 SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2019 SI.</p>
Ownership and control provisions	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 7	-	(c)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces existing guidance previously provided by the EU Schedule 1 of the 2019 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
Asset-freeze in relation to designated persons	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(1)-(4), Reg. 11(6)	The Republic of Guinea (Asset-Freezing) Regulations 2012 (the "2012 SI") - Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>In the 2019 UK SI, the term "<i>belonging to</i>" has been removed in relation to designated persons.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on why this term has been removed and whether the terms "<i>owned, held or controlled</i>" are considered by their ordinary definition to cover "<i>belonging</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset-freeze in relation to designated persons	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(5)	The Republic of Guinea (Asset-Freezing) Regulations 2012 - Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2012 SI previously defined the phrase "<i>deal with</i>" as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition is extended in the 2019 UK SI to add "<i>(whether by pledging them as security or otherwise)</i>".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>
Asset-freeze in relation to designated persons	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(6)	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 3	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset-freeze in relation to designated persons	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(7)	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 3	(b)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>This extends the scope of the wording in the 2012 SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>
Making funds and economic resources available to designated persons	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Regs. 12 and 14	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>The 2012 SI states that a person ("P") must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds/economic resources so available.</p> <p>The 2019 UK SI explicitly states making funds/economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2019 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts<sup>17</sup>. The 2019 UK SI does not include a rebuttable presumption.</p>
Exceptions	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2019 UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or</i></p>

<sup>17</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p> <p><i>(2) In paragraph (1) "independent person" means a person who—</i></p> <p><i>(a) is not the designated person, and</i></p> <p><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(1) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) accounts A and B are held or controlled (directly or indirectly) by P.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 19	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere.</p> <p>This is unlikely to have an impact on financial institutions.</p>
Treasury licences	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Regs. 20(1) – (3) and Schedule 2	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2019 UK SI. Similar restrictions did not apply expressly under the 2012 SI.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 20(4) – (6)	The Republic of Guinea (Asset-Freezing) Regulations 2012 - Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the 2012 SI the Treasury may vary or revoke a licence at any time. The new 2019 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>
Treasury licences	The Guinea	The Republic of	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (EU Exit) Regulations 2019 – Reg. 21	Guinea (Asset-Freezing) Regulations 2012 - Reg. 9(5)		<p>Under the 2012 SI, a person commits an offence if they "knowingly or recklessly provide information that is false in a material respect, or provides or produces a document that is not what it purports to be." The 2019 UK SI adds that this is applicable in the event that the licence is sought "whether for P or anyone else".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Reporting obligations	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 23	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 11 and Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI imposed reporting obligations on "relevant institutions" or "<i>relevant business or profession</i>". In the 2019 UK SI this has been replaced with "<i>relevant firm</i>". Regulation 24 in the 2019 UK SI clearly defines what a "<i>relevant firm</i>" is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Reporting obligations	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 23(4)	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI required relevant institutions which had a customer who was a designated person to inform the treasury of the "nature and amount or quantity of any funds or economic resources held by it for the customer". The 2019 UK SI adds "<i>at the time when it first had the knowledge or suspicion</i>" to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Credits to frozen accounts	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 8	(b) and (c)	<p><b>Medium impact</b></p> <p>Both the 2012 SI and the 2019 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p>

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		and Schedule		<p>in the 2012 SI the exceptions applied to "a person", whereas in the 2019 UK SI the exceptions apply to "relevant institutions" only, which is defined as a person with Part 4A permission under the Financial Services and Markets Act 2000; and</p> <p>the 2019 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>Financial institutions should ensure that they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>
Disclosure of information	The Guinea (Sanctions) (EU Exit) Regulations 2019 – Reg. 28	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Schedule, para. 5	(b)	<p>Both the 2012 SI and the 2019 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2019 UK SI, including:</p> <p>The 2012 SI authorised the disclosure of information by the Treasury, whereas the 2019 UK SI authorises the disclosure of information by the Treasury <i>or the Secretary of State</i>;</p> <p>the 2012 SI permitted the disclosure of information to "the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission". The 2019 UK SI only authorises disclosure to the Scottish Legal Aid Board but does not include the Northern Ireland Legal Services Commission specified in the 2012 SI;</p> <p>Both the 2012 SI and the 2019 UK SI permit disclosure to other Governments, however, the 2012 SI stated "the Government of a Member State" whereas the 2019 UK SI is broader and states "the Government of any country";</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>Both the 2012 SI and the 2019 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2019 UK SI also includes the European External Action Service;</p> <p>The 2019 UK SI permits disclosure to "any other regulatory body (whether or not in the UK)" ;and</p> <p>The 2019 UK SI also has a new category for disclosure which states that disclosure can be made to "<i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i>"</p>
Consent to prosecute	-	The Republic of Guinea (Asset-Freezing) Regulations 2012 – Reg. 15	(a)	The 2012 SI stated that proceedings for offences under the regulations (other than for summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2019 UK SI.

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Scope	Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 4(2)	The Council Regulation (EC) 1264/94 of 30 May 1994, Art. 2(2)	(c)	<p><b>Low Impact</b></p> <p>The Sanctions (Amendment) (EU Exit) Regulations 2019 (the "UK SI") amends the scope of the Council Regulation (EC) 1264/94 of 30 May 1994 (the "EU Financial Services SI") by limiting the application of the requirements to "<i>within the United Kingdom and to any national of the United Kingdom and any body which is incorporated or constituted under the law of the United Kingdom</i>".</p> <p>This change will have no material impact on the obligations of financial institutions.</p>
Scope	Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 4(3)	The Council Regulation (EC) 1264/94 of 30 May 1994, Art. 3	(c)	<p><b>Low Impact</b></p> <p>The UK SI amends the wording of the exclusions from the prohibition contained in the EU Financial Services SI by replacing the reference for "<i>a Member State</i>" in art. 3 of the EU Financial Services SI to "<i>the United Kingdom</i>".</p> <p>This change will have no material impact on the obligations of financial institutions.</p>
Penalties	Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 4(4)	The Council Regulation (EC) 1264/94 of 30 May 1994, Art. 5	(a)	<p><b>Low Impact</b></p> <p>The UK SI deletes the requirements in art. 5 of the EU Financial Services SI that requires each Member State to determine sanctions for the breaches.</p> <p>This change will have no material impact on the obligations of financial institutions.</p>
Scope	Sanctions (Amendment) (EU Exit) Regulations 2019, Reg. 4(5)	The Council Regulation (EC) 1264/94 of 30 May 1994, Art. 6	(c)	<p><b>Low Impact</b></p> <p>The UK SI deletes the following statement in art. 6 of the EU Financial Services SI: "<i>This Regulation shall be binding in its entirety and directly applicable in all Member States</i>" as it now only applied within the United Kingdom.</p> <p>This change will have no material impact on the obligations of financial institutions.</p>

# The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 11(1)	The Iran (Asset-Freezing) Regulations 2011, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Iran (Asset-Freezing) Regulations 2011 (the "EU Financial Services SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 11(5)(b)	The Iran (Asset-Freezing) Regulations 2011, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit)	The Iran (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or</p>

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	Regulations 2019, Reg. 11(6)			<p>economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 11(7)	The Iran (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 12(4)	The Iran (Asset-Freezing) Regulations 2011, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				person, albeit this presumption could be rebutted on the facts.
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 13(4)(b)	The Iran (Asset-Freezing) Regulations 2011, Reg. 5(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making funds available to any person for the benefit of a designated person, the EU Financial Services SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 14(4)	The Iran (Asset-Freezing) Regulations 2011, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 15(4)(b)	The Iran (Asset-Freezing) Regulations 2011, Reg. 7	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to any person for the benefit of a designated person, the EU Financial Services SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
persons				<p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Ownership and control provisions	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p>

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				<p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Regs. 33(1)-(2)	The Iran (Asset-Freezing) Regulations 2011, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and	The Iran (Sanctions)	The Iran (Asset-Freezing)	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
prohibition on making funds and economic resources available to designated persons	(Human Rights) (EU Exit) Regulations 2019, Reg. 33(3)	Regulations 2011, Reg. 8(1)(a)		<p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 33(5)	The Iran (Asset-Freezing) Regulations 2011, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on	The Iran (Sanctions) (Human Rights)	The Iran (Asset-Freezing) Regulations	(c)	<b>Low Impact</b>

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making funds and economic resources available to designated persons	(EU Exit) Regulations 2019, Reg. 33(6)	2011, Reg. 8		<p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 35(2)	The Iran (Asset-Freezing) Regulations 2011, Reg. 9	(b) and (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts "<i>by a particular person</i>" to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 4 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI.</p> <p>This provision should be contrasted with, for example, regulation 33(2) of the Yemen (Sanctions) (EU Exit) Regulations 2020/733. Whilst the provisions are similar, in the new Yemeni Regulations the phrase "<i>by a particular person</i>" has been deleted as it pertains to acts which relate to non-UN designated persons. It should further be noted that the grounds for granting a licence differ.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury Licences	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 37(5)	The Iran (Asset-Freezing) Regulations 2011, Reg. 9(3)	(c)	<b>Low Impact</b> Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.
Treasury Licences	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 38(1)	The Iran (Asset-Freezing) Regulations 2011, Reg. 9(5)	(c)	<b>Low Impact</b> Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 41(5)	The Iran (Asset-Freezing) Regulations 2011, Reg. 8(3)	(c)	<b>Low Impact</b> The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or where it received funds transferred to the account.  Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 33(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with regulation 33(6).
Trade Controls	The Iran (Sanctions)	The Export Control (Iran)	(c)	<b>Low Impact</b>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Human Rights) (EU Exit) Regulations 2019, Regs. 23-26.	Sanctions) Order 2016, Regs. 10(a) and 11  Export Control Order 2008		<p>The Export Control (Iran Sanctions) Order 2016 (the "EU Export Control SI") contains express restrictions on the sale, supply, transfer or export of equipment which might be used for internal repression to any person, entity or body in Iran or for use in Iran. For an offence to occur, a person must be <i>knowingly</i> concerned in such activities with the <i>intent to evade</i> the prohibitions in the regulations. The Export Control Order 2008, in turn, prohibits the export of restricted goods (including military goods) to embargoed destinations, including Iran.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence available to (certain) prohibitions if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 27	The Export Control (Iran Sanctions) Order 2016, Regs. 10(b) and 11	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on providing technical assistance related to prohibited goods to any person, entity or body in Iran or for use in Iran, a person must be <i>knowingly</i> concerned in the provision of such technical assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				(Reg. 32). This change is unlikely to have a material impact on the obligations of financial institutions.
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 28	The Export Control (Iran Sanctions) Order 2016, Regs. 10(c) and 11	(c)	<p><b>Low Impact</b></p> <p>The prohibition on providing financial services and funds related to restricted goods and technology to a person connected with Iran or for use in Iran is broader than the equivalent provisions in the EU Export Control SI. Specifically:</p> <p>(1) A person must not directly or indirectly provide, to a person connected with Iran, financial services in pursuance of or in connection with an arrangement whose object or effect is—</p> <ul style="list-style-type: none"> <li>(a) <i>the export of restricted goods,</i></li> <li>(b) <i>the direct or indirect supply or delivery of restricted goods,</i></li> <li>(c) <i>directly or indirectly making restricted goods or restricted technology available to a person,</i></li> <li>(d) <i>the transfer of restricted technology, or</i></li> <li>(e) <i>the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</i></li> </ul> <p>(2) <i>A person must not directly or indirectly make funds available to a person connected with Iran in pursuance of or in connection with an arrangement mentioned in paragraph (1).</i></p> <p>(3) <i>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—</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) <i>the export of restricted goods to, or for use in, Iran,</i></p> <p>(b) <i>the direct or indirect supply or delivery of restricted goods to a place in Iran,</i></p> <p>(c) <i>directly or indirectly making restricted goods or restricted technology available—</i></p> <p style="padding-left: 20px;">(i) <i>to a person connected with Iran, or</i></p> <p style="padding-left: 20px;">(ii) <i>for use in Iran,</i></p> <p>(d) <i>the transfer of restricted technology—</i></p> <p style="padding-left: 20px;">(i) <i>to a person connected with Iran, or</i></p> <p style="padding-left: 20px;">(ii) <i>to a place in Iran, or</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to restricted goods or restricted technology—</i></p> <p style="padding-left: 20px;">(i) <i>to a person connected with Iran, or</i></p> <p style="padding-left: 20px;">(ii) <i>for use in Iran.</i></p> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance related to restricted goods to any person, entity or body in Iran or for use in Iran, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 29	The Export Control (Iran Sanctions) Order 2016, Regs. 10(b) and 11	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on providing brokering services related to arrangements whose object or effect is prohibited, a person must be <i>knowingly</i> concerned in the provision of such brokering services with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 30	The Export Control (Iran Sanctions) Order 2016, Reg. 11	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on providing interception and monitoring services to the Iranian government, a person must be <i>knowingly</i> concerned in the provision of such interception and monitoring services with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of this prohibition (and the applicable defence) is amended slightly in the UK SI.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 12(1)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 3(1)  The Iran (Financial Sanctions) Order 2007, Reg. 6(1)	(c)	<p><b>Low Impact</b></p> <p>The Iran (European Union Financial Sanctions) Regulations 2016 (the "EU Financial Services SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The Iran (Financial Sanctions) Order 2007 imposed a comparable prohibition on dealing with funds or economic resources "<i>owned, held or controlled</i>" by a designated person. Under this regulation, it was a defence if a person could show that they did not know and had no reasonable cause to suspect that they were dealing with funds or economic resources owned, held or controlled by a designated person.</p> <p>The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 (the "UK SI") adopts the same wording as is used in the Iran (Financial Sanctions) Order 2007, omitting the reference to funds or economic resources "<i>belonging</i>" to designated persons. The defence, however, is no longer available.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 12(5)(b)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 3(2)(b)  The Iran (Financial	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>". This phrase was separately defined, in turn, in the Iran (Financial Sanctions) Order 2007 as "<i>use to obtain funds, goods or services in any way, including (but not limited to) by selling, hiring or mortgaging the resources</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Sanctions) Order 2007, Reg. 6(4)(b)		<p>This definition has been amended in the UK SI to: "<i>uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise)</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 12(6)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 12(7)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person <u>if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</u></i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Prohibition on	The Iran	The Iran	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons	(Sanctions) (Nuclear) (EU Exit) Regulations 2019, Regs. 13-16	(Financial Sanctions) Order 2007, Reg. 7(3)		<p>The wording of the prohibitions on making funds or economic resources available to or for the benefit of a designated person has been amended slightly in the UK SI.</p> <p>Under the Iran (Financial Sanctions) Order 2007, it was a defence to these offences for a person to show that they did not know and had no reasonable cause to suspect that they were making funds or economic resources available to or for the benefit of a designated person.</p> <p>Under the UK SI, the prosecution must establish in the first instance that a person knew, or had reasonable cause to suspect, that their actions were prohibited for an offence to occur.</p>
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 13(4)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 15(4)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.
Ownership and control provisions	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that the affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p>

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				Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Regs. 37(1)-(2)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019,	The Iran (European Union Financial Sanctions)	(c)	<p><b>Low Impact</b></p> <p>Both the EU Financial Services SI and the Iran (Financial Sanctions) Order 2007 previously provided that a person who credits a frozen account with interest or other earnings due on an</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
economic resources available to designated persons	Reg. 37(3)	Regulations 2016, Reg. 8(1)(a)  The Iran (Financial Sanctions) Order 2007, Reg. 8(1)(a)		<p>account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 37(5)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 8(1)(b)  The Iran (Financial Sanctions) Order 2007, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person. A comparable provision is found in the Iran (Financial Sanctions) Order 2007.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and	The Iran (Sanctions) (Nuclear) (EU Exit)	The Iran (European Union Financial	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
economic resources available to designated persons	Regulations 2019, Reg. 37(6)	Sanctions) Regulations 2016, Reg. 8		<p>available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on providing financial messaging services to a designated person	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 17(4)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 10(1)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on providing financial messaging services to a designated person, the EU Financial Services SI previously defined the phrase "<i>specialised financial messaging services</i>" as services "<i>which are used to exchange financial data</i>".</p> <p>This definition has been amended slightly in the UK SI to mean "<i>specialised services enabling credit or financial institutions to electronically transmit messages effecting financial transactions or containing information about financial transactions</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iran (Sanctions) (Nuclear) (EU Exit)	The Iran (European Union Financial	(b), (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts "<i>by a particular</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Regulations 2019, Reg. 40(2)-(3)	Sanctions) Regulations 2016, Reg. 9  The Iran (Financial Sanctions) Order 2007, Reg. 10		<p><i>person</i>" in relation to a non-UN designated person, and acts in relation to a UN designated person, to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI or the Iran (Financial Sanctions) Order 2007.</p> <p>This provision should be contrasted with, for example, regulation 33(2) of the Yemen (Sanctions) (EU Exit) Regulations 2020/733. Whilst the provisions are similar, in the new Yemeni Regulations the phrase "<i>by a particular person</i>" has been deleted as it pertains to acts which relate to non-UN designated persons. It should further be noted that the grounds for granting a licence differ.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 42(5)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 9(3)  The Iran (Financial Sanctions) Order 2007, Reg. 10(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI and the Iran (Financial Sanctions) Order 2007, the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>
Treasury Licences	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019,	The Iran (European Union Financial Sanctions) Regulations	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI and the Iran (Financial Sanctions) Order 2007, a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The</p>

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	Reg. 43(1)	2016, Reg. 9(5)  The Iran (Financial Sanctions) Order 2007, Reg. 10(5)		UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019, Reg. 46(5)	The Iran (European Union Financial Sanctions) Regulations 2016, Reg. 8(3)  The Iran (Financial Sanctions) Order 2007, Sch. 2, para. 2(3)	(c)	<b>Low Impact</b>  The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with funds transferred to the account. The Iran (Financial Sanctions) Order 2007 imposes a similar requirement, where a relevant institution receives funds transferred to a frozen account by a third party.  Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 37(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with regulation 37(6).
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Regs. 21-24.	The Export Control (Iran Sanctions) Order 2016, Regs. 4(a)(i), 5(a)(i), 6(a), 8(a)(i) and 9(a)(i)  Export Control Order 2008	(c)	<b>Low Impact</b>  The Export Control (Iran Sanctions) Order 2016 (the " <b>EU Export Control SI</b> ") contains express restrictions on the sale or supply of restricted goods and technology to any person, entity or body in Iran or for use in Iran. For an offence to occur, a person must be <i>knowingly</i> concerned in such activities with the <i>intent to evade</i> the prohibitions in the regulations. The Export Control Order 2008, in turn, prohibits the export of restricted goods (including military goods) to embargoed destinations, including Iran.  The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent</i>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>to evade</i>. There is however a defence available to (certain) prohibitions if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 25	The Export Control (Iran Sanctions) Order 2016, Regs. 4(a)(ii), 5(a)(ii), 6(b), 7(a), 8(a)(ii) and 9(a)(ii)	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on providing technical assistance related to prohibited goods to any person, entity or body in Iran or for use in Iran, a person must be <i>knowingly</i> concerned in the provision of such technical assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 26	The Export Control (Iran Sanctions) Order 2016, Regs. 4(a)(iii), 5(a)(iii), 6(c), 7(b),	(c)	<p><b>Low Impact</b></p> <p>The prohibition on providing financial services and funds related to restricted goods and technology to a person connected with Iran or for use in Iran is broader than the equivalent provisions in the EU Export Control SI. Specifically:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		8(a)(iii) and 9(a)(iii)		<p>(1) <i>A person must not directly or indirectly provide, to a person connected with Iran, financial services in pursuance of or in connection with an arrangement whose object or effect is—</i></p> <ul style="list-style-type: none"> <li>(a) <i>the export of restricted goods,</i></li> <li>(b) <i>the direct or indirect supply or delivery of restricted goods,</i></li> <li>(c) <i>directly or indirectly making restricted goods or restricted technology available to a person,</i></li> <li>(d) <i>the transfer of restricted technology, or</i></li> <li>(e) <i>the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</i></li> </ul> <p>(2) <i>A person must not directly or indirectly make funds available to a person connected with Iran in pursuance of or in connection with an arrangement mentioned in paragraph (1).</i></p> <p>(3) <i>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—</i></p> <ul style="list-style-type: none"> <li>(a) <i>the export of restricted goods to, or for use in, Iran,</i></li> <li>(b) <i>the direct or indirect supply or delivery of restricted goods to a place in Iran,</i></li> <li>(c) <i>directly or indirectly making restricted goods or restricted technology available—</i> <ul style="list-style-type: none"> <li>(i) <i>to a person connected with Iran, or</i></li> </ul> </li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(ii) for use in Iran,</p> <p>(d) the transfer of restricted technology—</p> <p>(i) to a person connected with Iran, or</p> <p>(ii) for use in Iran, or</p> <p>(e) the direct or indirect provision of technical assistance relating to restricted goods—</p> <p>(i) to a person connected with Iran, or</p> <p>(ii) for use in Iran.</p> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance related to restricted goods to any person, entity or body in Iran or for use in Iran, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance with the <i>intent to evade</i> the prohibition in the regulations</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p>
Trade Controls	The Iran (Sanctions) (Human Rights)	The Export Control (Iran Sanctions)	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(EU Exit) Regulations 2019, Reg. 27	Order 2016, Regs. 4(a)(ii), 5(a)(ii), 6(b), 7(a), 8(a)(ii) and 9(a)(ii)		<p>on providing brokering services related to prohibited goods to any person, entity or body in Iran or for use in Iran, a person must be <i>knowingly</i> concerned in the provision of such brokering services with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran (Sanctions) (Human Rights) (EU Exit) Regulations 2019, Regs. 28-31	The Export Control (Iran Sanctions) Order 2016, Regs. 4(a)(v), 5(a)(v), 6(e) and 7(2)	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on importing restricted goods from Iran, a person must be <i>knowingly</i> concerned in such activities with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence available to (certain) prohibitions if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	The Iran	The Export	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (Human Rights) (EU Exit) Regulations 2019, Reg. 32	Control (Iran Sanctions) Order 2016, Regs. 4(a)(iv), 5(a)(iv), 6(d) and 7(1)(c)		<p>The EU Export Control SI stipulates that, for an offence to occur in relation to the prohibition on entering arrangements whose object or effect is prohibited, a person must be <i>knowingly</i> concerned in such activities with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The wording of these prohibitions (and applicable defences) is amended slightly in the UK SI. In particular, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that their actions were in breach of the prohibitions. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 36).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Iraq (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 8(1) and 9(1)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Iraq (Asset-Freezing) Regulations 2012 (the "EU SI") imposed prohibitions on persons dealing with funds or economic resources "<i>belonging to, or owned or held by</i>" (i) a designated person, or (ii) the previous Government of Iraq or certain listed persons, entities and bodies, which were located outside Iraq on 22 May 2003, if the person knew, or had reasonable cause to suspect, that they were dealing with such funds or economic resources.</p> <p>The Iraq (Sanctions) (EU Exit) Regulations 2020 (the "UK SI") splits these prohibitions into two separate provisions, described as a "partial-asset freeze", which applies to assets of the former Government of Iraq located outside of Iraq on 22 May 2003, and an "asset freeze", which relates to other designated persons.</p> <p>In both cases, the wording of the prohibition has been amended slightly in the UK SI to refer to funds or economic resources "<i>owned, held or controlled</i>" by a designated person. This language does not include reference to funds or economic resources "<i>belonging</i>" to designated persons and adds a reference to funds or economic resources "<i>controlled</i>" by designated persons.</p> <p>These changes are unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 8(6)(b) and 9(5)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 8(7)(a) and 9(6)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 8(7)(b) and 9(7)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p> <p>The UK SI states in Reg. 8(7)(B) that this does not apply, however, to the prohibition on dealing</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				with funds or economic resources owned, held or controlled by the former Government of Iran etc.
Prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 10(4)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 11(4)(b)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 5(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making funds available to any person for the benefit of a designated person, the EU SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources available to	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 12(4)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
designated persons				<i>indirectly (within the meaning of regulation 7) by the designated person</i> " (emphasis added).  This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.
Prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 13(4)(b)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 7(2)(b)	(c)	<b>Low Impact</b>  For the purposes of the prohibition on making economic resources available to any person for the benefit of a designated person, the EU SI previously defined the phrase " <i>financial benefit</i> " to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.  This definition has been extended slightly in the UK SI to include a " <i>partial discharge</i> " of such financial obligations as well.  This change is unlikely to have a material impact on the obligations of financial institutions.
Ownership and control provisions	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 7	-	(c)	<b>Potentially High Impact</b>  The UK SI provides that, for the purposes of the total asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be " <i>owned or controlled directly or indirectly</i> " by another person if either of two conditions are met:  (1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i>  (2) <i>The first condition is that P—</i>  <i>(a) holds directly or indirectly more than 50% of the shares in C,</i>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) holds directly or indirectly more than 50% of the voting rights in C, or</p> <p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 30(1)-(2)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) The prohibition in regulation 8 and 9 (partial asset-freeze and asset-freeze) are not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</p> <p>(a) is held by P, and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p>(a) <i>is not the designated person, and</i></p> <p>(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 30(3)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 30(5)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				<p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a <i>relevant institution</i> for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (<i>or partial discharge</i>) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 30(6)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 8	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 8 to 11 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to	The Iraq	-	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
asset freeze and prohibition on making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2020, Reg. 31			<p>The UK SI sets out a new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds or economic resources available to or for the benefit of a designated person, allowing the transfer of funds or economic resources owned, held or controlled by a designated person to the successor account to the Development Fund for Iraq put in place by the Government of Iraq under conditions set out in UN resolution 1483 and UN resolution 1956.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 35(2)-(3)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 9	(b), (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts in relation to a designated person to instances where the Treasury considers a licence appropriate for a purpose set out in Parts 2 and 3 of Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU SI.</p> <p>This provision should be contrasted with regulation 34(2) of the Sudan (Sanctions) (EU Exit) Regulations 2020/733. Whilst the provisions are similar, in the new Sudanese Regulations the phrase "<i>by a particular person</i>" has been added. It should further be noted that the grounds for granting a licence differ.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 37(5)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Iraq	The Iraq (Asset-	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (EU Exit) Regulations 2020, Reg. 38(1)	Freezing) Regulations 2012, Reg. 9(5)		<p>Under the EU SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 40(5)	The Iraq (Asset-Freezing) Regulations 2012, Reg. 8(3)	(c)	<p><b>Low Impact</b></p> <p>The EU SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with funds transferred to the account.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 30(4) (credits a frozen account) or transfers funds from a frozen account in accordance with regulation 30(6).</p>
Trade Controls - Military	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 17-20	The Iraq (United Nations Sanctions) Order 2003, Regs. 5-7	(c)	<p><b>Low Impact</b></p> <p>The Iraq (United Nations Sanctions) Order 2003 (the "UN SI") prohibits the supply and delivery of restricted goods (including military goods) to any person in Iraq.</p> <p>The wording of these prohibitions (and applicable defences) are amended slightly in the UK SI, which prohibits the export of military goods to or for use in Iraq, the supply or delivery of military goods from a third country to Iraq, making military goods or technology available to, or transferring military technology to, a person connected with Iraq or for use in Iraq.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls –	The Iraq	-	(b)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Military	(Sanctions) (EU Exit) Regulations 2020, Reg. 21			<p>The UK SI prohibits a person from directly or indirectly providing brokering services in relation to an arrangement whose object or effect concerns the supply, delivery or transfer of military goods and technology from a third country to a person connected with Iraq or to a place in Iraq. A person is connected with Iraq if ordinarily resident in Iraq, located in Iraq, incorporated or constituted under the law of Iraq, or domiciled in Iraq (Reg.16(4)). The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person was connected with Iraq or that the goods or technology were for use in Iraq. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.29).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls – Cultural Property	The Iraq (Sanctions) (EU Exit) Regulations 2020, Regs. 22-24	The Iraq (United Nations Sanctions) Order 2003, Reg. 8	(c)	<p><b>Low Impact</b></p> <p>The UN SI prohibits the import and export to and from the EU, and dealing in, illegally removed Iraqi cultural property.</p> <p>The wording of these prohibitions (and applicable defences) are amended slightly in the UK SI, which prohibits the export and import of illegally removed Iraqi cultural property, the supply or delivery of illegally removed Iraqi cultural property from one third country to any other third country, the making available of illegally removed Iraqi cultural property to another person, and the acquisition of illegally removed Iraqi cultural property from another person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls – Cultural Property	The Iraq (Sanctions) (EU Exit) Regulations	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI prohibits a person from directly or indirectly providing financial services or funds in pursuance of, or in connection with, an arrangement whose object or effect concerns the</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2020, Reg. 25			<p>export or import of illegally removed Iraqi cultural property, and the direct or indirect supply or delivery of illegally removed Iraqi cultural property. There is also a restriction on directly or indirectly providing financial services or funds in pursuance of, or in connection with, the direct or indirect making of illegally removed Iraqi property available to a person. There is a defence if the accused did not know and had no reasonable cause to suspect that the financial services or funds were provide in pursuance of or in connection with such an arrangement. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.29).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls – Cultural Property	The Iraq (Sanctions) (EU Exit) Regulations 2020, Reg. 26	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI prohibits a person from directly or indirectly providing brokering services in relation to an arrangement whose object or effect is the supply or delivery of illegally removed Iraqi cultural property from a third country to another third country. There are also restrictions on making available illegally removed Iraqi cultural property to a person in a third country, and the direct or indirect provision in a non-UK country of financial services or funds for an arrangement in contravention of Regulation 25(1). There is a defence if the accused did not know and had no reasonable cause to suspect that the brokering services were provided in pursuance of or in connection with such an arrangement. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.29).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU SI reference	Change to legal obligation	Impact
Scope of the Regulations	ISIL (Da'esh) and Al-Qaida (United Nations Sanctions) (EU Exit) Regulations 2019 No. 466 ("UK ISIL SI"), Regs. 3(1), 3(7)	ISIL (Da'esh) and Al-Qaida Asset Freezing Regulations 2011 No. 2742, as amended by the Al Qaida (Asset Freezing) (Amendment) Regulations 2016 (S.I. 2016/937) ("EU ISIL SI"), Regulation 1(2)	(b)	<p><b>Medium Impact</b></p> <p>The EU ISIL SI provides that an offence under these Regulations may be committed by conduct wholly or partly outside the UK.</p> <p>The UK ISIL SI provides that an offence under these Regulations may be committed by conduct both in and outside the UK.</p> <p>The UK ISIL SI is wider in scope than the EU ISIL SI. Whilst this should not have any practical impact on the obligations of financial institutions, it may mean that more activity is sanctioned under the UK ISIL SI.</p>
Asset freeze in relation to designated persons	UK ISIL SI, Reg. 8(5)	EU ISIL SI, Reg. 3	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU ISIL SI previously defined the phrase "deals with" economic resources as the "exchange, or use in exchange, for funds, goods or services".</p> <p>This definition has been extended slightly in the UK ISIL SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Asset freeze in relation to designated persons	UK ISIL SI, Reg. 8(6)	EU ISIL SI, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK ISIL SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession.</p> <p>This new language is similar in effect to the concept of ownership and control set out in previous non-binding guidance provided by the EU<sup>18</sup>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	UK ISIL SI, Reg. 8(7)	EU ISIL SI, Reg. 3(1)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK ISIL SI provides that funds or economic resources are treated as owned, held, or controlled by a designated person if they are "<i>owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU ISIL SI to include a new express prohibition on dealing with the funds or economic resources of entities owned or controlled by such designated persons.</p>
Asset freeze in relation to designated	UK ISIL SI, Regs. 25, 26.	EC Regulation 881/2002 of 27 May 2002 ("EC	(c)	<p><b>Low Impact</b></p> <p>The UK ISIL SI introduces two new provisions which are intended to deal specifically with the</p>

<sup>18</sup> "Update of the EU Best Practices for the effective implementation of restrictive measures" (<https://data.consilium.europa.eu/doc/document/ST-8519-2018-INIT/en/pdf#>)

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persons		<b>Regulation 881/2002</b> <sup>19</sup> , Arts. 2, 4(1) and Annex 1A		<p>asset freeze on Usama bin Laden and his estate. The provisions provide that:</p> <p>Persons must not deal with the funds or economic resources owned, held or controlled by, Usama bin Laden at the time of his death, or which after his death formed all or part of his estate, knowing or with reasonable cause to suspect, that such persons were dealing with such funds or economic resources; and</p> <p>It is an offence to circumvent this prohibition, or enable/facilitate the contravention of the prohibition.</p> <p>Whilst neither of these provisions are expressly contained in the EU ISIL SI, the provisions broadly mirror EC Regulation 881/2002.</p> <p>The UK ISIL SI introduces no new obligations in respect of the asset freeze on Usama bin Laden and his estate, but does clarify the prohibition in that:</p> <p>It applies to funds or economic resources owned, held, or controlled by Usama bin Laden at the time of his death, or which formed all or part of his estate after his death (subsection 1);</p> <p>The statutory definition of "dealing with" explained above in respect of Reg. 8 also applies.</p>
Prohibition on making funds or economic resources available to designated persons	UK ISIL SI, Regs. 9(1), 9(4)	EU ISIL SI, Reg. 5	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making <u>funds</u> available directly or indirectly to designated persons is extended by the UK ISIL SI, which provides expressly that funds are made available indirectly to a designated person if made <i>"available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person"</i>.</p> <p>No such provision is contained in the EU ISIL SI.</p>

<sup>19</sup> EC Reg. 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida organisations (last updated 27 May 2020)

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				This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.
Prohibition on making funds or economic resources available to designated persons	UK ISIL SI, Regs. 11(1), 11(4)	EU ISIL SI, Reg. 6(1)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making <u>economic resources</u> available to designated persons, the UK ISIL SI provides that economic resources are made available indirectly to a designated person if made <i>"available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person"</i>.</p> <p>No such provision is contained in the EU ISIL SI.</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	UK ISIL SI, Reg. 7 and Schedule 1	N/A	(b)	<p><b>Potentially High Impact</b></p> <p>The UK ISIL SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "owned or controlled directly or indirectly" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p>

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				<p>(b) holds directly or indirectly more than 50% of the voting rights in C, or</p> <p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>The EU ISIL SI and EC Regulation 881/2002 do not provide a definition of ownership and control, but the EU has provided non-binding guidance on the definition.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK ISIL SI, Reg. 27(1)	N/A	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK ISIL SI sets out the following new exception:</p> <p>(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) and 25 (asset-freeze in relation to Usama bin Laden) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</p>

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				<p>(a) is held by P, and</p> <p>(b) is not held jointly with the designated person.</p> <p>(2) In paragraph (1) "independent person" means a person who—</p> <p>(a) is not the designated person, and</p> <p>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</p> <p>The circumstances in which this exception would apply are not clear from the drafting of the provision or any associated guidance, although it appears likely to apply where different interests (for example, legal and equitable interests) in funds or economic resources are held by different persons, only one of which is a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
<p>Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons</p>	<p>UK ISIL SI, Reg. 27(3)</p>	<p>EU ISIL SI, Reg. 8(1)(a).</p>	<p>(c)</p>	<p><b>Low Impact</b></p> <p>The EU ISIL SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK ISIL SI. First, the exception now expressly applies to relevant institutions (i.e. firms with Part 4A permission under FSMA) only. Secondly, under the UK ISIL SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK ISIL SI, Reg. 27(5)	EU ISIL SI, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU ISIL SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK ISIL SI. Under the new UK ISIL SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>In practice, there is likely to be little difference in applying the new exception.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK ISIL SI, Reg. 27(6)	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK ISIL SI introduces a new exception in relation to accounts held or controlled directly or indirectly by a designated person. Funds may be transferred between accounts A and B, where account A is with a relevant institution carrying on an excluded activity within the meaning of section 142D FSMA and account B is with a ring-fenced body within the meaning of section 142A FSMA.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources	UK ISIL SI, Reg. 27(7)	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK ISIL SI introduces a new exception for the payment of social security benefits, which matches that under the CTR and International CTR UK SI. However, the exemption in the UK ISIL SI is in respect of Regulation 9 (making funds available to designated persons, as opposed to Reg. 10 for the benefit of designated persons).</p>

This review does not constitute legal advice and should not be relied upon by any parties.

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available to designated persons				This new exception is unlikely to have a material impact on the obligations of financial institutions.
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	UK ISIL SI, Reg. 28	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK ISIL SI sets out the following new exception for acts done for purposes of national security or prevention of serious crime:</p> <p>(1) <i>"Where an act would, in the absence of this paragraph, be prohibited by any prohibition in Part 3 (finance), Part 4 (trade), or Part 5 (other sanctions), that prohibition does not apply to the act if the act is one which a responsible officer has determined would be in the interests of—</i></p> <p style="margin-left: 40px;">(a) <i>national security, or</i></p> <p style="margin-left: 40px;">(b) <i>the prevention or detection of serious crime in the United Kingdom or elsewhere.</i></p> <p>(2) <i>Where, in the absence of this paragraph, a thing would be required to be done under or by virtue of a provision of Part 6 (information) or 8 (maritime enforcement), that requirement does not apply if a responsible officer has determined that not doing the thing in question would be in the interests of—</i></p> <p style="margin-left: 40px;">(a) <i>national security, or</i></p> <p style="margin-left: 40px;">(b) <i>the prevention or detection of serious crime in the United Kingdom or elsewhere."</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK ISIL SI, Reg. 29	EU ISIL SI, Reg. 9	(b)	<b>Low Impact</b>

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		EC Regulation 881/2002, Art. 2(a)		<p>The UK ISIL SI limits the ability of the Treasury to issue a licence authorising acts by a particular person to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK ISIL SI. The list of purposes set out in Schedule 2 reflects the list of possible derogations contained in EC Regulation 881/2002.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	UK ISIL SI, Reg. 29(4)	EU ISIL SI, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU ISIL SI the Treasury may vary or revoke a licence at any time. The new UK ISIL SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institution.</p>
Treasury Licences	UK ISIL SI, Reg. 30	EU ISIL SI, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU ISIL SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK ISIL SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	UK ISIL SI, Regs. 14-22	EC Regulation 2016/1686 of 20 September 2016 ("EC Regulation 2016/1686") <sup>20</sup> , Art. 9	(c)	<p><b>Low Impact</b></p> <p>The UK ISIL SI contains express restrictions on:</p> <ul style="list-style-type: none"> <li>the export of military goods to a designated person;</li> <li>the supply or delivery of military goods from a third country to a designated person;</li> </ul>

<sup>20</sup> EC Regulation 2016/1686 of 20 September 2016 imposing additional restrictive measures directed against ISIL (Da'esh) and Al-Qaeda and natural and legal persons, entities or bodies associated with them (last updated 25 November 2019)

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				<p>making military goods or technology available or transferring military technology to or for the benefit of designated persons;</p> <p>providing technical assistance relating to military goods or military technology to, or for the benefit of designated persons;</p> <p>providing financial and brokering services, and making funds available, to or for the benefit of designated persons;</p> <p>providing technical assistance, financial services or funds, or brokering services where such provision enables the conduct of armed hostilities.</p> <p>Designated persons for purposes of these controls may not be the same as designated persons which are the subject of the financial provisions referred to above.</p> <p>No such provisions existed in the EU ISIL SI, although the restrictions in the UK ISIL SI broadly mirror the restrictions in EC Regulation 2016/1686 (as explained further below).</p> <p>These additions to the UK ISIL SI are unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	UK ISIL SI, Reg. 20	EC Regulation 2016/1686, Art. 9(b)	(c)	<p><b>Low Impact</b></p> <p>The prohibition in the UK ISIL SI on providing financial services and funds related to military goods and technology to designated persons broadly mirrors the equivalent provisions in the EC Regulation 2016/1686. The UK ISIL SI restrictions do however provide more detail and clarity on the nature of the specific restrictions. Specifically, there are restrictions in the UK ISIL SI on:</p> <p><i>(1) Providing financial services to, or for the benefit of, designated person in pursuance of or in connection with an arrangement whose object or effect is—</i></p>

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				<p>(a) <i>the export of military goods,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available to a person,</i></p> <p>(d) <i>the transfer of military technology, or</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology.</i></p> <p>(2) <i>Directly or indirectly making funds available to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement mentioned above.</i></p> <p>(3) <i>Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</i></p> <p>(a) <i>the export of military goods to, or for the benefit of, a designated person,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods to, or for the benefit of, a designated person,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available to, or for the benefit of, a designated person,</i></p> <p>(d) <i>the transfer of military technology to, or for the benefit of, a designated person, or</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.</i></p>

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				<p>The UK ISIL SI makes it an offence to breach these prohibitions. The offences contain a requirement of knowledge or reasonable cause to suspect as well as a defence for the accused to show that they did not know or have reasonable cause to suspect that financial services or funds were provided or made available to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	UK ISIL SI, Reg. 21	EC Regulation 2016/1686, Art. 9(a)	(c)	<p><b>Low Impact</b></p> <p>The UK ISIL SI relating to the provision of "brokering services" broadly mirrors the prohibition under EC Regulation 2016/1686 although the scope of the prohibition is clarified in that:</p> <ul style="list-style-type: none"> <li>the UK ISIL SI only applies in respect of activity in non-UK countries;</li> <li>there is a non-exhaustive definition of "brokering services" (Reg. 14(3));</li> <li>the regulation sets out a list of the specific arrangements in respect of which brokering services are prohibited (Reg. 21(1)).</li> </ul> <p>Breach of the prohibition is an offence, which requires knowledge or reasonable cause to suspect, although there is a defence if the accused did not know or have reasonable cause to suspect that the brokering services were provided in relation to a prohibited arrangement.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	UK ISIL SI, Reg. 22	N/A	(b)	<p><b>Low Impact</b></p> <p>The UK ISIL SI introduces a new prohibition on providing directly or indirectly to, or for the benefit of, a designated person:</p> <p><i>(a) financial services or funds, or</i></p>

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				<p>(b) <i>brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, technical assistance, financial services or funds, where such provision enables or facilitates the conduct of armed hostilities.</i></p> <p>Whilst this is a new prohibition/offence, given it applies in respect of designated persons we do not expect it to have much practical impact on financial institutions.</p>
Information Obligations	UK ISIL SI, Reg. 31(5)	EU ISIL SI, Reg. 8(3)	(c)	<p><b>Low Impact</b></p> <p>The EU ISIL SI provided that relevant institutions had to inform the Treasury without delay if it credited a frozen account with:</p> <p>Interest or other earnings due on the account (8(a));</p> <p>Payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account (8(b)); or</p> <p>Funds transferred to the account (8(2)).</p> <p>Under the UK ISIL SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 27(4) (receipt of funds to credit a frozen account) or regulation 27(6) (transfers funds from a frozen account).</p> <p>This amendment is unlikely to have a material impact on financial institutions reporting obligations although the scope of what is to be reported is now broader.</p>

# The Lebanon (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 7	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 2(b)	(b)	<p><b>Low Impact</b></p> <p>The Lebanon (Sanctions) (EU Exit) Regulations 2020 (the "UK SI") introduces express restrictions on the export of military goods.</p> <p>The Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 (the "EU Sanctions SI") did not expressly prohibit exports and only focused on financing and financial assistance activities which were tied to the sale, supply, transfer or export of arms and related material or for the provision of any related technical assistance.</p> <p>This is unlikely to impact UK financial institutions as they are unlikely to be involved in the export of military goods.</p>
Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 8	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 2(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Sanctions SI imposed a strict liability offence for contravening the prohibition on the provision, manufacture, maintenance and use of arms and related material, directly, or indirectly to any person, entity or body in, or for use in, Lebanon.</p> <p>The UK SI has narrowed this language and now only provides that it is prohibited to directly or indirectly supply or deliver military goods from a third country to a place in Lebanon, rather than the provision (etc.) for use in Lebanon.</p> <p>The UK SI also provides a defence if the accused did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Lebanon.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the</p>

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				<p>court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.15).</p> <p>This is unlikely to impact UK financial institutions as they are unlikely to be involved in the supply or delivery of military goods.</p>
Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 9-10	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a new restriction on:</p> <ul style="list-style-type: none"> <li>(a) making military goods or military technology available to a person connected with Lebanon or for use in Lebanon; or</li> <li>(b) transferring military technology to a place in Lebanon or to person connected with Lebanon.</li> </ul> <p>The UK SI provides a defence for the restriction described in (a) if the accused did not know and had no reasonable cause to suspect that the person was connected with Lebanon or that the goods or technology were for use in Lebanon.</p> <p>The UK SI also provides a defence for the restriction described in (b) if the accused did not know and had no reasonable cause to suspect that the that the transfer of technology was to a place in Lebanon or that the person was connected with Lebanon.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.15).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as they are unlikely to be involved in such activities.</p>

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Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 11	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 2(a)	(d)	<p><b>Low Impact</b></p> <p>The EU Sanctions SI imposes a strict liability offence for contravening the prohibition on providing technical assistance to a person connected with Lebanon or for use in Lebanon and relating to military activities and to the provision, manufacture, maintenance and use of arms and related material, directly, or indirectly to any person, entity or body in, or for use in, Lebanon.</p> <p>The UK SI now provides a defence if the accused did not know and had no reasonable cause to suspect that the person to whom the technical assistance was provided was connected with Lebanon or that the military goods or technology were for use in Lebanon.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.15). This is unlikely to impact UK financial institutions as they are unlikely to provide technical assistance relating to military goods or technology.</p>
Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 12	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 2(b)	(c)	<p><b>Potentially Medium Impact</b></p> <p>The prohibition on providing financial services and funds related to military goods and technology to a person connected with Lebanon incorporates the use of more expansive language than the equivalent provisions in the EU Sanctions SI. Specifically, there is a new restriction in the UK SI relating to the provisions in italics:</p> <p>(1) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</p> <p>(a) the export of military goods to, or for the use in, Lebanon,</p> <p>(b) the direct or indirect supply or delivery of military goods to a place in Lebanon,</p>

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				<p>(c) <i>directly or indirectly making military goods or military technology available to a person connected with Lebanon or for use in Lebanon,</i></p> <p>(d) <i>the transfer of military technology to a person connected with Lebanon or for use in Lebanon, or</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology to a person connected with Lebanon or for use in Lebanon.</i></p> <p>These new restrictions impact financial institutions as it is likely to result in requiring additional due diligence be performed on proposed financial services or arrangements which have a connection with Lebanon.</p> <p>The EU Sanctions SI impose a strict liability offence for contravention of the prohibition. The UK SI now provides a defence if the accused did not know and had no reasonable cause to suspect that the person to whom financial services was connected with Lebanon or that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned in the paragraph above.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg.15).</p>
Trade controls	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 13	-	(b)	<p><b>High Impact</b></p> <p>New restrictions are imposed in the UK SI concerning the provision of "brokering services" in relation to arrangements ("<b>arrangement A</b>") whose object or effect is—</p> <p>(a) <i>the direct or indirect supply or delivery of military goods from a third country to a place in Lebanon,</i></p>

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				<p>(b) <i>directly or indirectly making military goods available in a third country for direct or indirect supply or delivery—</i></p> <p>(i) <i>to a person connected with Lebanon, or</i></p> <p>(ii) <i>to a place in Lebanon,</i></p> <p>(c) <i>directly or indirectly making military technology available in a third country for transfer—</i></p> <p>(i) <i>to a person connected with Lebanon, or</i></p> <p>(ii) <i>to a place in Lebanon,</i></p> <p>(d) <i>the transfer of military technology from a place in a third country—</i></p> <p>(i) <i>to a person connected with Lebanon, or</i></p> <p>(ii) <i>to a place in Lebanon,</i></p> <p>(e) <i>the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or military technology—</i></p> <p>(i) <i>to a person connected with Lebanon, or</i></p> <p>(ii) <i>for use in Lebanon,</i></p> <p>(f) <i>the direct or indirect provision, in a non-UK country, of financial services—</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(i) to a person connected with Lebanon, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 12(1), or</p> <p>(ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 12(3),</p> <p>(g) directly or indirectly making funds available, in a non-UK country, to a person connected with Lebanon, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 12(1), or</p> <p>(h) 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 12(3).</p> <p>The restrictions concern "brokering services" which are defined widely as any service to secure, or otherwise in relation to, an arrangement, including (but not limited to):</p> <p>(a) the selection or introduction of persons as parties or potential parties to the arrangement;</p> <p>(b) the negotiation of the arrangement;</p> <p>(c) the facilitation of anything that enables the arrangement to be entered into; and</p> <p>(d) the provision of any assistance that in any way promotes or facilitates the arrangement.</p> <p>These new restrictions impact financial institutions as it is likely to result in requiring additional due diligence be performed on the proposed financing arrangements.</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The UK SI provides a defence if the accused did not know and had no reasonable cause to suspect that the person to whom financial services was connected with Lebanon or that the brokering services were provided in pursuance of or inn connection with an arrangement mentioned in the paragraph above.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 15).</p>
Circumvention provisions	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 14	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 2(c)	(b)	<p><b>Medium impact</b></p> <p>The scope of circumvention restrictions provided for in Reg. 2(c) of the EU Sanctions SI have been expanded. The previous prohibition restricted activities which "<i>participate</i>, knowingly and intentionally, in activities, the object or effect of which is to circumvent the prohibitions".</p> <p>The restriction in the UK SI expands the meaning of "<i>participate</i>" to include scenarios where the participation can "<i>enable or facilitate</i>" the contravention of the prohibition.</p> <p>This broadens the scope of the restriction but the mens rea test remains the same. Therefore, we think this have a medium impact on financial institutions as they may still need to update their internal processes and controls to cover the broader scope of restricted activity.</p>
Trade licences	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 17(2)-(3)	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Sanctions SI the Secretary of State's powers were expressly limited to the granting of a licence and did not expressly provide for the licence to be subject to any conditions or limitations. The new UK SI expressly provides that the Secretary of State who issues a licence must specify the acts authorised by it, that it may be limited to a category of persons or be granted generally, and may contain conditions and be of a defined or indefinite duration.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulations 2006 Reg. 3		<p>The new UK SI further provides that the Secretary of State may also vary, revoke or suspend the licence at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade licences	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 18(1)	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Sanctions SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade licences	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 18(3)	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 3(3)	(a)	<p><b>Low Impact</b></p> <p>Under the EU Sanctions SI, an offence would be committed where a person failed to act in compliance with any requirement or condition of a licence unless:</p> <p><i>(a) the licence had been modified by the Secretary of State; and</i></p> <p><i>(b) the alleged failure to comply would not have been a failure had the licence not been so modified; and</i></p> <p><i>(c) the licence was modified after the doing of the act authorised by the licence.</i></p> <p>The new UK SI does not provide for this scenario.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade licences	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 18(3)	Lebanon (Technical Assistance, Financing and Financial Assistance) (Penalties and Licences) Regulations 2006 Reg. 5(4)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Sanctions SI, reporting obligations imposed under S77A of CEMA in relation to those prohibited activities (which were authorised under a licence) applied by virtue of Regulation 5(4) of the EU Sanctions SI.</p> <p>Under the new UK SI, the activities for which a licence may be granted has been extended due to the increase scope of prohibitions under the UK SI, and references to "goods" have been replaced by "goods, technology, services or funds".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade licences	The Lebanon (Sanctions) (EU Exit) Regulations 2020 Regs. 20(2)-(6)	-	(b)	<p><b>Medium Impact</b></p> <p>The new UK SI introduces record keeping requirements. To the extent a person ("P") does any act authorised by a general licence, they must keep a register or record to allow the following information to be identified in relation to each act done under the authority of the licence:</p> <p>(a) a description of the act;</p> <p>(b) a description of any goods, technology, services or funds to which the act relates;</p> <p>(c) the date of the act or the dates between which the act took place;</p> <p>(d) the quantity of any goods or funds to which the act relates;</p> <p>(e) P's name and address;</p> <p>(f) the name and address of any consignee of goods to which the act relates or any recipient of technology, services or funds to which the act relates;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(g) <i>in so far as it is known to P, the name and address of the end-user of the goods, technology, services or funds to which the act relates;</i></p> <p>(h) <i>if different from P, the name and address of the supplier of any goods to which the act relates;</i></p> <p>(i) <i>any further information required by the licence.</i></p> <p>The register or record must be kept until the end of the calendar year in which the register or record was created and for a further period of four years from the end of that calendar year.</p> <p>The person who obtains the licence and acts under its authority must notify the Secretary of State in writing of their name, the address at which the register or record may be inspected and must notify further if those details change. A failure to comply with the requirements above is an offence.</p> <p>A notification must be given no later than 30 days after P's first act authorised under the licence or if there is any change to the previous notified details.</p>

# The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 8(1)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Lebanon and Syria (Asset-Freezing) Regulations 2012 (the "EU Financial Services SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 8(5)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in	The Lebanon	The Lebanon	(b)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
relation to designated persons	(Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 8(6)	and Syria (Asset-Freezing) Regulations 2012, Reg. 3(2)		<p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 8(7)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 3(2)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person <u>if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</u></i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Asset freeze in relation to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 14(1)-(2)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 8 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p> <p><i>(2) In paragraph (1) "independent person" means a person who—</i></p> <p><i>(a) is not the designated person, and</i></p> <p><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources available to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 9(4)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<b><i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i></b>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and	The Lebanon and Syria (Asset-Freezing)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a</p>

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available to designated persons	others) (EU Exit) Regulations 2020, Reg. 11(4)	Regulations 2012, Reg. 6		<p>designated person if made "<b><i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i></b>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>In this Part a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 14(3)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 8(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. The exception used to apply to explicitly to "persons" which was an undefined term, Regulation 8(4) framed the exception in the context of accounts with <i>relevant institutions</i>, implying that it applied only to firms with Part 4A permission under FSMA.</p> <p>Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. We note that the amendment of the scope of this exception appears to be only a technical change and that other financial entities such as payment institutions and e-money institutions will not be able to avail themselves of this exception.</p>
Exemptions to	The Lebanon	The Lebanon	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
asset freeze and prohibition on making funds and economic resources available to designated persons	(Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 14(5)	and Syria (Asset-Freezing) Regulations 2012, Reg. 8		<p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 8 to 12 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. This will provide an exception for ring-fenced entities.</p>
Treasury Licences	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 16(4)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>
Treasury Licences	The Lebanon (Sanctions) (Assassination of	The Lebanon and Syria (Asset-Freezing)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 17(1)	Regulations 2012, Reg. 9(5)		provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Lebanon (Sanctions) (Assassination of Rafiq Hariri and others) (EU Exit) Regulations 2020, Reg. 18(5)(b)	The Lebanon and Syria (Asset-Freezing) Regulations 2012, Reg. 9(5)	(b)	<b>Low Impact</b>  The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with interest or other earnings due on the account.  Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 14(4) (finance: exceptions from prohibitions) or transfers funds from a frozen account in accordance with regulation 14(5).

# The Libya (Sanctions) (EU Exit) Regulations 2020.

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<ul style="list-style-type: none"> <li>- The Libya (Sanctions) (EU Exit) Regulations 2020/1665 (the "UK SI")</li> <li>- Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</li> <li>- The Libya (European Union Financial Sanctions) Regulations 2016/45 (The "EU Financial Services SI")</li> <li>- EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya (the "EU Regulation")</li> <li>- EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</li> <li>- Export Control Order 2008/3231 (the "Export Control Order")</li> <li>- Export Control (Libya Sanctions) Order 2016/787 (the "EU Export Control SI")</li> </ul>
Asset freeze in relation to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 12(1)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Reg. 3(1)	(a)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by a designated person</i>", or "<i>belonging to, or owned, held or controlled by an Annex VI [(to the EU Regulation)] person on 16 September 2011 and located outside Libya on that date</i>".</p> <p>The substantive differences are:</p> <ul style="list-style-type: none"> <li>(a) the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person – this is unlikely to have a material impact on the obligations of financial institutions; and</li> <li>(b) the UK SI has removed the limb of the prohibition relating to dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by an Annex VI person on 16 September 2011 and located outside Libya on that date</i>" – the partial asset freezing provisions have been moved into Regulation 18 of the UK SI (as to which, please see below).</li> </ul>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Asset freeze in relation to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 12(5)  Sanctions and Anti-Money Laundering Act 2018, S. 60	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 1(d)  The Libya (European Union Financial Sanctions) Regulations 2016/45, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.</i>"</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise).</i>" This largely mirrors the language of the EU Financial Services SI, however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that in most cases the UK SI's language of "<i>exchang[ing]</i>" or "<i>us[ing]</i> the economic resources in exchange for..." will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise.</i>" In theory, this creates greater scope of debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice.</p> <p>It is worth noting that the definition of "<i>economic resources</i>" in section 60 of the SAMLA does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets... which... can be used to obtain funds</i>" so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated	The Libya (Sanctions) (EU Exit)	EU Guidance 8519/18, Para. 34	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "<i>owned, held or controlled</i>" stating that they include:</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
persons	Regulations 2020/1665, Reg. 12(6)			<p>(a) "<i>funds or economic resources in which the person <u>has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources</u></i>" (emphasis added); and</p> <p>(b) "<i>any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in possession of the person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that "<i>holding or controlling</i>" should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <ul style="list-style-type: none"> <li>(a) has banknotes or debt certificates issued to bearer,</li> <li>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity,</li> <li>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g. for the purpose of managing a specific bank account), or</li> <li>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</li> </ul> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear the UK SI casts a wider net on the meaning of "<i>owned, held or controlled</i>" as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Asset freeze in relation to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 12(7)	EU Guidance 8519/18, Para. 66	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance, on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances, including [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity</i>" (emphasis added).</p> <p>The new language in the UK SI - which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons - mirrors EU Guidance. However under the EU Guidance there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Partial asset freeze in relation to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 18	-	(b)	<p><b>Medium Impact</b></p> <p>The UK SI replicates the partial asset freeze at Regulation 18 (in relation to the Libyan Investment Authority and the Libyan Africa Investment Portfolio – see Regulation 10). This requires persons not to deal with "<i>relevant funds or economic resources</i>" that are owned, held or controlled by a designated person if they know or have reasonable cause to suspect that this is the case.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>It defines "<i>relevant funds or economic resources</i>" as:</p> <ul style="list-style-type: none"> <li>- funds or economic resources located outside Libya immediately before 17 September 2011,</li> <li>- funds credited on or after 17 September 2011 to a relevant account (i.e., an account with a relevant institution held or controlled directly or indirectly by a designated person) in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person, and</li> <li>- any interest or other earnings on the funds mentioned above credited on or after 17 September 2011 to a relevant account.</li> </ul> <p>The UK SI explicitly carves out from the scope of the prohibition "<i>funds or economic resources owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p>
Prohibition on making funds and economic resources available to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Regs. 13, 15 and 19	The Libya (European Union Financial Sanctions) Regulations 2016/45, Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 13 and 15 – which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p> <p>In addition, Reg. 19 includes a prohibition on making "<i>relevant funds</i>" (ie, under the partial asset freeze) available to a designated person where there is knowledge or reasonable cause to suspect that this is the case. It defines "<i>relevant funds</i>" as:</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<ul style="list-style-type: none"> <li>- interest or other earnings due on funds held in a relevant account (i.e., an account with a relevant institution held or controlled directly or indirectly by a designated person) which have been frozen by virtue of Reg. 18(1), and</li> <li>- funds due to a designated person by virtue of an obligation which arose prior to the date on which the person became a designated person.</li> </ul>
Prohibition on making funds or economic resources available for the benefit of designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Regs. 14, 16 and 20	The Libya (European Union Financial Sanctions) Regulations 2016/45, Regs. 5 and 7  EU Guidance 8519/18, Para. 59	(c)	<p><b>Medium Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant financial benefit</u></i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned</i>". The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we could see a divergence between the EU and UK concepts of "making available".</p> <p>In addition, Reg. 20 includes a prohibition on making "<i>relevant funds</i>" (ie, under the partial asset freeze) available to any person for the benefit of a designated person where there is knowledge or reasonable cause to suspect that this is the case. It defines "<i>relevant funds</i>" as:</p> <ul style="list-style-type: none"> <li>- interest or other earnings due on funds held in a relevant account (i.e., an account with a relevant institution held or controlled directly or indirectly by a designated person) which have been frozen by virtue of Reg. 18(1), and</li> <li>- funds due to a designated person by virtue of an obligation which arose prior to the date on which the person became a designated person.</li> </ul>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, S. 44	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 16	(a)(c)	<p><b>Low Impact</b></p> <p>Art. 16 of the EU Regulation contains a sheltering provision which provides that freezing of funds or economic resources, or refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under s. 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 7 and Sch. 1	EU Guidance 8519/18, Paras. 62 and 63	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p style="margin-left: 40px;">(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p style="margin-left: 40px;">(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p style="margin-left: 40px;">(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>[...]</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by</i></p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p><i>whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control:</p> <ul style="list-style-type: none"> <li><i>(a) having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></li> <li><i>(b) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></li> <li><i>(c) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></li> <li><i>(d) having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></li> <li><i>(e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></li> <li><i>(f) having the right to use all or part of the assets of a legal person or entity;</i></li> <li><i>(g) managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></li> <li><i>(h) sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></li> </ul> <p>The UK SI has adopted the approach of having a catch all, as show in subsection (4) above, and so likely having regard to "<i>all the circumstances</i>" will include the factors above. However, on the face of it, the wording of the UK SI presents a much more limited view of what constitutes "control".</p>

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				<p>In addition to codifying the definition of ownership and control, the UK SI contains at Sch. 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <ul style="list-style-type: none"> <li>- Pursuant to paragraph 2 of Sch. 1, persons who hold a share or right jointly are each treated as holding that share or right;</li> <li>- Pursuant to paragraph 3(1) of Sch. 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</li> </ul> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see paragraph (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person holding rights or exercising powers in order for the control test to be met.</p> <p>Paragraph 4 of Sch. 1 defines a person holding “<i>more than 50% of the shares</i>” in a person to be a person holding shares comprised in the issued share capital of that person “<i>of a nominal value exceeding (in aggregate) 50% of that share capital</i>”. This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than “<i>50% of the proprietary rights</i>” in a person.</p> <p>Paragraph 9 of Sch. 1 deals with the meaning of shares or rights being held “<i>indirectly</i>”. This occurs where a person has a “<i>majority stake</i>” in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of “<i>majority stake</i>” is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, paragraph 9(4) of Sch. 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>understanding what constitutes holding a “majority stake”. This definition appears to be narrow as it refers to situations where a person’s appointment as director flows from their appointment as director of the entity with the “majority stake” or where the entity with the “majority stake” itself holds the directorship. It does not refer to situations where the entity with the “majority stake” exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paragraphs 10 and 11 of Sch. 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in paragraph 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person’s instructions or in that person’s interests (except for purposes of preserving or exercising security).</p>
<p>Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons</p>	<p>The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 43(3)</p>	<p>EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 12(1)(a)</p>	<p>(c)</p>	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with interest or other earnings due on an account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only. Second, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 43(4)	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 12(2)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that where financial or credit institutions credit frozen accounts of a designated person with funds received for crediting to that account, they do not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only. Second, under the UK SI this exception applies to the prohibition on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 43(5)	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 12(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 43(1)	-	(a)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person:</p> <p><i>(1) The prohibitions in regulation 12 and 18 (asset-freeze and partial asset-freeze in relation to designated persons) are not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 43(6)	-	(a)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(6) The prohibitions in regulations 12 to 14, and regulations 18 to 20, are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	-	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 12(1)(c)	(b)	<b>Medium Impact</b> The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral lien or judgment without contravening the prohibitions on making funds or economic resources available to or for the benefit of a designated person has been deleted (although a licensing purpose exists – see Reg. 48 and other exemptions noted above may still be available, depending on the circumstances).
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	-	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 12(1)(d)	(b)	<b>Medium Impact</b> The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned without contravening the prohibitions on making funds or economic resources available to or for the benefit of a designated person has been deleted (and there is no equivalent carried across in respect of judicial, administrative or arbitral decisions rendered in the UK or enforceable in the UK, although a licensing purpose exists – see Reg. 48).
Exceptions to asset freeze and prohibition on making funds and economic resources	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 47	-	(a)	<b>Low Impact</b> Reg. 47 contains a new exception for acts done for the purposes of national security or the prevention or detection of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.  This change is unlikely to have a material impact on the obligations of financial institutions.

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
available to designated persons				
Treasury Licences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 48(2) - (4) and Sch. 4	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Arts. 8, 9, 10 and 13	(a)(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences in respect of asset freeze restrictions and making funds/economic resources available are split into those that apply in relation to a non-UN designated person and those that apply in relation to a UN designated person.</p> <p>For both UN designated and non-UN designated persons:</p> <ul style="list-style-type: none"> <li>- A licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains (see Sch. 4, Part 1, para. 1). However, (i) the types of "<i>basic needs</i>" has been split into those for an individual and those for an entity, (ii) the language appears to focus on the "<i>needs</i>" for food, etc. rather than "<i>payments for</i>" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "<i>basic needs</i>" for entities such as "<i>the payment of reasonable fees for the provision of property management services</i>" and the "<i>payment of remuneration, allowances or pensions of employees</i>", and (iv) the basic need of medicines and medical treatment has been deleted (in relation to entities but not individuals). There is also a fairly broad clarification of what constitutes a "<i>dependent family member</i>" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</li> <li>- A licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 4, Part 1, para. 2). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "<i>reasonable</i>" (albeit this is in accordance with the practice OFSI applies already).</li> <li>- A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 4, Part 1, para. 3). However, again, such fees and service charges are now required to be "<i>reasonable</i>".</li> <li>- A licence to enable payment of extraordinary expenses remains (see Sch. 4, Part 1, para.</li> </ul>

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Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>4). However, there is a new qualification in that the expenses must be of a designated person.</p> <ul style="list-style-type: none"> <li>- A licence to enable implementation or satisfaction of a judicial, administrative or arbitral decision or lien remains (see Sch. 4, Part 1, para. 5).</li> <li>- A licence to enable satisfaction of prior obligations remains (Sch. 4, Part 2, para. 11 and Sch. 4, Part 3, Para. 12). It ought to be noted that it only applies to contractual obligations in the case of UN designated persons. In the case of non-UN designated persons, it also applies to obligations under agreements and other obligations.</li> </ul> <p>For non-UN designated persons the following licensing purposes also apply (see Sch. 4, Part 3):</p> <ul style="list-style-type: none"> <li>- A licence for humanitarian purposes remains (see Sch. 4, Part 3, para. 13), however its wording is broader in that it may be granted to "<i>enable anything to be done in connection with the performance of any humanitarian assistance activity.</i>" The examples of "<i>delivery and facilitation of delivery of humanitarian aid, the delivery of materials and supplies necessary for essential civilian needs, including food and agricultural materials for its production, medical products and the provision of electricity, or for evacuations from Libya</i>" are no longer listed.</li> <li>- New licensing purposes have been introduced to enable the functions of diplomatic missions or consular posts to be carried out (see Sch. 4, Part 3, para. 14) and to deal with extraordinary situations (see Sch. 4, Part 3, para. 15). Note that "<i>extraordinary situation</i>" is not defined and so is potentially flexible, but this is unclear.</li> </ul> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 51(5)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Treasury Licences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 52(1)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide information that is false in a material respect, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 56(5)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Reg. 8	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, (ii) with payments due under judicial, administrative or arbitral decisions rendered or enforceable in the UK, or (iii) where funds are transferred to the account. The first two notification requirements have been deleted from the UK SI.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 43(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 43(6). The latter notification requirement is a new addition.</p>
Information Obligations	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 56(4)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Sch. 1, para. 1(4)	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 56(4) that where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Information Obligations	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 58(6)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Sch. 1, para. 2(5)	(c)	<b>Low Impact</b>  Under the EU Financial Services SI, the Treasury was permitted to request " <i>any person in or resident in the United Kingdom</i> " to provide relevant information, whereas under the UK SI, this has been widened to any person " <i>if the Treasury believe that the person may be able to provide the information</i> ".
Information Obligations	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 58(7)(c)	The Libya (European Union Financial Sanctions) Regulations 2016/45, Sch. 1, para. 2(5)(c)	(c)	<b>Low Impact</b>  Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include " <i>detecting or obtaining evidence of the commission of an offence...</i> " (emphasis added).  This is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 64	The Libya (European Union Financial Sanctions) Regulations 2016/45, Sch. 1, para. 5  Export Control Order 2008/3231, Art. 43	(c)	<b>Low Impact</b>  In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.  For example, information may be disclosed for any purpose stated in Reg. 4 (i.e., the purposes of the UK SI), and to " <i>any other person, where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i> ".

This review does not constitute legal advice and should not be relied upon by any parties.

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Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 23	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 2(1)(a)  Export Control (Libya Sanctions) Order 2016/787, Art. 5A(1)(a)  Export Control Order 2008/3231, Art. 3	(c)	<p><b>Low Impact</b></p> <p>The UK SI includes a prohibition on the export of restricted goods (being goods which could be used for migrant smuggling and human trafficking, internal repression goods and military goods) to, or for use in, Libya.</p> <p>The EU Regulation covers the export of equipment which might be used for internal repression to any person, entity or body in Libya or for use in Libya (see Art. 2(1)(a)) – please note that the EU Regulation (at Annex I) and the UK SI (at Sch. 2) cover slightly different goods when referring to internal repression goods.</p> <p>The EU Export Control SI set out a prohibition on exporting goods which could be used for smuggling migrants and trafficking in human beings, to any person, entity or body in Libya or for use in Libya (see Art. 5A(1)(a)).</p> <p>The prohibition on the export of military goods is not contained in the EU Regulation (consistent with the European Union’s Common Security and Defence Policy) or the EU Export Control SI. It is, however, in line with the general prohibition (subject to exceptions and licensing) on the export of military goods contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day) and the UK SI provisions will sit alongside the same.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 24	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in	(b) and (c)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the import of arms and related materiel and internal repression goods which are consigned from or originate in Libya.</p> <p>The prohibition on the import of arms and related materiel does not appear in the EU Regulation.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
		Libya, Art. 2(2)		<p>The prohibition on the import of internal repression goods does appear in the EU Regulation, but is framed in slightly broader terms than in the UK SI. The EU Regulation prohibition applies to equipment from Libya, "<i>whether or not the item concerned originates in Libya</i>". Please also note that the EU Regulation (at Annex I) and the UK SI (at Sch. 2) covers slightly different goods when referring to internal repression goods.</p> <p>This is unlikely to have a significant impact on the obligations of financial institutions.</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 25(1)(a) and (3)(a)	<p>EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 2(1)(a)</p> <p>Export Control (Libya Sanctions) Order 2016/787, Art. 5A(1)(b)</p> <p>Export Control Order 2008/3231, Art. 20</p>	(c)	<p><b>Low Impact</b></p> <p>The UK SI includes a prohibition on the direct or indirect supply or delivery of restricted goods (being goods which could be used for migrant smuggling and human trafficking, internal repression goods and military goods) from a third country to a place in Libya, unless that person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Libya.</p> <p>The EU Regulation covers the supply of equipment which might be used for internal repression to any person, entity or body in Libya or for use in Libya (see Art. 2(1)(a)) – please note that the EU Regulation (at Annex I) and the UK SI (at Sch. 2) cover slightly different goods when referring to internal repression goods.</p> <p>The EU Export Control SI provided a prohibition on supplying goods which could be used for smuggling migrants and trafficking in human beings (see Art. 5A(1)(b)).</p> <p>The prohibition in relation to military goods is not contained in the EU Regulation (consistent with the European Union’s Common Security and Defence Policy) or the EU Export Control SI. It is, however, in line with the general prohibition (subject to exceptions and licensing) contained in the Export Control Order at Art. 20 (and the defence for "no reasonable suspicion" in Art. 34). The Export Control Order prohibits the supply or delivery, an agreement to supply or deliver, and any act calculated to promote the supply or delivery to Libya (being an "embargoed</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>destination"). The UK SI provisions will sit alongside this.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Regs. 26-27		(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI introduces at Reg. 26 a new prohibition on directly or indirectly making restricted goods (being goods which could be used for migrant smuggling and human trafficking, internal repression goods and military goods) and restricted technology (internal repression technology and military technology) available to a person connected with Libya or for use in Libya. However, it is a defence if there was no knowledge, or reasonable cause to suspect that the person was connected with Libya, or that the goods or technology were for use in Libya.</p> <p>Reg. 26 also prohibits directly or indirectly acquiring military goods, internal repression goods and restricted technology from a person connected with Libya, which originate in Libya, or are located in Libya. It is, however, a defence if there was no knowledge, or reasonable cause to suspect that the person was connected with Libya, or that the goods or technology originated/were located in Libya.</p> <p>Similarly, by virtue of Reg. 27, it is also prohibited to transfer restricted technology to a place in Libya, to a person connected with Libya, or from a place in Libya (unless there was no knowledge, or reasonable cause to suspect that this was the case). This will be more difficult to screen for.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>The definition of "<i>connected with</i>" is extremely broad and includes:</p> <ul style="list-style-type: none"> <li>- An individual who is, or an association or combination of individuals who are, ordinarily resident in the Libya;</li> <li>- An individual who is, or an association or combination of individuals who are, located in Libya;</li> <li>- A person, other than an individual, which is incorporated or constituted under the law of Libya; or</li> <li>- A person, other than an individual, which is domiciled in Libya.</li> </ul> <p>Material part of Regs. 26 and 27 do not appear in the EU Export Control SI, the EU Regulation or the Export Control Order. The prohibition is broadly drafted, especially those provisions relating to the supply of controlled goods to persons "<i>connected with</i>" Libya. Financial institutions will again need to ensure sufficient diligence is conducted on transactions to identify any touchpoint to Libya, to ensure they can benefit from the defence of having "<i>no reasonable cause to suspect</i>".</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 28	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 3(1)  Export Control (Libya Sanctions) Order 2016/787,	(a) and (b)	<p><b>Low Impact</b></p> <p>The EU Regulation contains prohibitions on:</p> <ul style="list-style-type: none"> <li>- the provision, directly or indirectly, of technical assistance related to the goods and technology listed in the Common Military List of the EU or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in Libya or for use in Libya;</li> <li>- the provision, directly or indirectly, of technical assistance related to equipment which might be used for internal repression as listed in Annex I, to any person, entity or body in Libya or for use in Libya; and</li> </ul>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
		Arts. 5(c), 5A(1)(c) and 6(a) and (c)		<ul style="list-style-type: none"> <li>- the provision, directly or indirectly, of technical assistance related to the provision of armed mercenary personnel in Libya or for use in Libya.</li> </ul> <p>These prohibitions were transposed into UK law by the EU Export Control SI (see Arts. 5(c) and 6(a) and (c)). The Export Control SI also provided a prohibition on provision of technical assistance with regard to goods which could be used for smuggling migrants and trafficking in human beings to any person, entity or body in Libya or for use in Libya (see Art. 5A(1)(c)).</p> <p>The new UK SI contains similar prohibitions, subject to the material change that it prohibits the provision of technical assistance to "<i>a person connected with Libya</i>". As above, this is broadly defined.</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 29  Sanctions and Anti-Money Laundering Act 2018, s. 61	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Arts. 2a(1)(c) and 3(1)(c) and (d)  Export Control (Libya Sanctions) Order 2016/787, Art. 6	(a) and (b)	<p><b>Medium Impact</b></p> <p>The UK SI's prohibition on providing financial services and funds related to restricted goods (being goods which could be used for migrant smuggling and human trafficking, internal repression goods and military goods) and restricted technology (internal repression technology and military technology) is broader than the equivalent provisions in the EU Regulation and EU Export Control SI. Specifically, there are restrictions on:</p> <ol style="list-style-type: none"> <li>1. Directly or indirectly providing, to a person connected with Libya, financial services in pursuance of or in connection with an arrangement whose object or effect is: <ul style="list-style-type: none"> <li>(a) the export of restricted goods,</li> </ul> </li> </ol>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<ul style="list-style-type: none"> <li>(b) the direct or indirect supply or delivery of restricted goods,</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person,</li> <li>(d) the transfer of restricted technology, or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</li> </ul> <p>2. Directly or indirectly making funds available to a person connected with Libya in pursuance of or in connection with an arrangement mentioned in (1) above.</p> <p>3. Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the export of restricted goods to, or for use in, Libya,</li> <li>(b) the direct or indirect supply or delivery of restricted goods to a place in Libya,</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person connected with Libya or for use in Libya,</li> <li>(d) the transfer of restricted technology to a person connected with Libya or to a place in Libya, or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or military technology to a person connected with Libya or for use in Libya.</li> </ul> <p>The key differences for financial institutions are as follows:</p> <ul style="list-style-type: none"> <li>a) As the definition of "connected person" is wide (see above) and will be onerous to screen for than under prior legislation.</li> <li>b) The UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services", which is non-exhaustively defined in the SAMLA as including banking, insurance-related and other financial services. The EU listed examples of "financial assistance" are all explicitly covered by the SAMLA (that is, loans and export</li> </ul>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>credit insurance) except for grants. It is not clear whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case.</p> <p>c) It was prohibited under the EU Regulation to provide financing or financial assistance for the provision of related brokering services. It appears this prohibition is not explicitly replicated.</p> <p>d) It was prohibited under the EU Regulation to provide financial or financial assistance related to provision of armed mercenary personnel. These prohibitions have not been explicitly replicated.</p> <p>e) There is now a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 34).</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 30	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 2a(1)(b)	(b)	<p><b>Medium Impact</b></p> <p>The UK SI introduces prohibitions on directly or indirectly providing brokering services for arrangements where the object or effect is:</p> <ul style="list-style-type: none"> <li>- the direct or indirect supply or delivery of restricted goods from a third country to a place in Libya,</li> <li>- directly or indirectly making restricted goods available in a third country for direct or indirect supply or delivery to a person connected with Libya, or to a place in Libya,</li> <li>- directly or indirectly making restricted technology available in a third country for transfer to a person connected with Libya or to a place in Libya,</li> <li>- the transfer of restricted technology from a place in a third country to a person connected with Libya or to a place in Libya,</li> </ul>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<ul style="list-style-type: none"> <li>- the direct or indirect provision in a non-UK country, of technical assistance relating to restricted goods or technology to a person connected with Libya, or for use in Libya,</li> <li>- the direct or indirect provision, in a non-UK country, of financial services to a person connected with Libya (where the arrangement, or any connected arrangement, is within the scope of Reg. 29 (outlined above))</li> <li>- directly or indirectly making funds available, in a non-UK country, to a person connected with Libya (where the arrangement, or any connected arrangement, is within the scope of Reg. 29(1) (outlined above)), or</li> <li>- the direct or indirect provision of funds from a non-UK country (where the arrangement or any other connected arrangement is within the scope of Reg. 29(3) (outlined above)).</li> </ul> <p>It is a defence if there is no knowledge or reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned in that paragraph.</p> <p>The EU Regulation prohibits the provision of brokering services related to goods which could be used for smuggling of migrants and trafficking in human beings or related to the provision, manufacture, maintenance and use of such goods, to any person, entity or body in Libya or for use in Libya. Other than that the prohibitions in relation to brokering services do not exist in the EU Regulation or the Export Control Order (albeit there is overlap with Arts. 21 – 23 of the Export Control Order).</p> <p>The UK SI's definition of "brokering services" is generally broad (covering, amongst other things "<i>the provision of any assistance that in any way promotes or facilitates the arrangement</i>"). This prohibition also covers the provision of funds and financial services and therefore could capture activities of financial institutions.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 31  Sanctions and Anti-Money Laundering Act 2018, s. 61	-	(b)	<b>Potentially Medium Impact</b>  The UK SI includes a prohibition on the direct or indirect provision of technical assistance, armed personnel, financial services or funds, or brokering services (in relation to an agreement whose object or effect is to provide, in a non-UK country, technical assistance, armed personnel, or financial services or funds) where such provision enables or facilitates the conduct or armed hostilities in Libya. This does not appear in the EU Regulation, the EU Export Control SI or the Export Control Order.  Given that "financial services" are non-exhaustively and broadly defined under the SAMLA as including banking, insurance-related and other financial services, this has a potentially wide application which could capture the transactions arranged by financial institutions. It is, however, a defence to show there was no knowledge, or reasonable cause to suspect, that the relevant act would enable or facilitate the conduct of armed hostilities in Libya.
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 36	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 15(2)-(3)	(b) and (c)	<b>Low Impact</b>  The UK SI prohibits the provision of a designated ship with access to a port in the United Kingdom, if it is known or there is reasonable cause to suspect that the ship is a designated ship. The EU Regulation also contained a similar provision but did include a derogation that has not been replicated in the UK SI where entry to a port was necessary for an inspection, in the case of an emergency or where the vessel was returning to Libya. To that extent the UK SI casts a wider net.  In addition, the UK SI introduces a new prohibition, which was not present in the EU Regulation, prohibiting a master or pilot of a designated ship from causing or permitting entry into any port in the United Kingdom if he or she knows or has reasonable cause to suspect that the ship is a designated ship.

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				These changes are unlikely to have a significant impact on financial institutions.
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Regs. 38 and 41	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 15(6)	(a) and (c)	<p><b>Low Impact</b></p> <p>The UK SI prohibits financial transactions relating to Libyan oil (i.e., petroleum, including crude oil and refined petroleum products originating from Libya) aboard a designated ship. This prohibition also existed under the EU Regulation.</p> <p>The EU Regulation contained a derogation with respect to acceptance of port fees where entry to a port was necessary for an inspection in the case of an emergency or where the ship was returning to Libya. The UK SI widens this derogation to "<i>payment or receipt of any fees pursuant to the entry into port of a ship carrying that oil</i>".</p> <p>These changes are unlikely to have a significant impact on financial institutions.</p>
Trade Controls	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 39	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI, unlike the EU Regulation, prohibits participation in activities knowing that their object or effect is to circumvent the prohibitions in Regs. 35, 37 and 38, or to enable or facilitate contravention of the same Regulations. This is unlikely to have a significant impact on financial institutions.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions to trade controls	-	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art. 3(2)-(3)	(b)	<p><b>Low Impact</b></p> <p>The EU Regulation contains derogations from the prohibitions on provision of (i) technical assistance related to the goods and technology listed in the Common Military List of the EU or related to the provision, manufacture, maintenance and use of goods included in that list (Art. 3(1)(a)), (ii) technical assistance related to equipment which might be used for internal repression (Art. 3(1)(b)), (iii) financing or financial assistance related to the sale, supply, transfer or export of goods and technology listed in the Common Military List of the EU or which might be used for internal repression, or for any provision of related technical assistance (Art. 3(1)(c)), and (iv) technical assistance, financing or financial assistance related to the provision of armed mercenary personnel in Libya or for use in Libya (Art. 3(1)(d)).</p> <p>The prohibitions do not apply in several circumstances including in the case of non-lethal military equipment intended solely for humanitarian purposes, protective use, temporarily exported to Libya by UN personnel, media or humanitarian workers for personal use, or as approved in advance by the UN Sanctions Committee for security or disarmament assistance to the Libyan government. These derogations have not been carried forward into the UK SI albeit this is unlikely to have a significant impact on financial institutions.</p>
Trade Control Licences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg.51(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<p><b>Low Impact</b></p> <p>Reg. 51(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be "<i>limited so as to expire on a specified date unless renewed</i>". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.</p>
Trade Control Licences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665,	The Export Control Order 2008/3231, Art. 38(1)-(2)	(c)	<p><b>Low Impact</b></p> <p>Pursuant to Reg. 53(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 53(2), there is no carve out from the offence where the licence is modified after completion of the act authorised.</p>

Restrictive Measure/Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
	Reg.53(2)			This means that the UK SI contains a broader prohibition.
Defences	The Libya (Sanctions) (EU Exit) Regulations 2020/1665, Reg. 40(2)	-	(a)	<p><b>Medium Impact</b></p> <p>There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.</p> <p>This will make it easier for financial institutions to rely upon defences.</p>
Satisfaction of claims	-	EU Council Regulation 2016/44 concerning restrictive measures in view of the situation in Libya, Art.17(1)	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a restriction on the satisfaction of claims made by a designated person, any other Libyan person, entity or body, or a person acting through or on behalf of either, in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under the EU Regulation.</p> <p>This is not carried forward into the UK SI but is unlikely to have a material impact for financial institutions.</p>

# The Mali (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Power to designate	The Mali (Sanctions) (EU Exit) Regulations 2020 (the "2020 UK SI") – Regs. 5 to 6, 8 to 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out specific designation criteria at Regulation 6 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2015 SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2020 SI.</p>
Ownership and control provisions	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 7	-	(c)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P -</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(3) Schedule 1 contains provisions applying for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2020 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
Designation of persons named by or under UN Security Council Resolutions	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 10	-	(c)	<p><b>Low Impact</b></p> <p>Each person named for the purposes of paragraph 4 of resolution 2374 by the Security Council or the Committee is a designated person for the purposes of regulations 12 to 16 (related to asset freezes). These persons can still be designated by the Secretary of State under regulation 5 for the purposes of regulations 12 to 16.</p> <p>Although this is unlikely to have an impact on financial institutions, these institutions should still monitor any new designations under the UK SI and by the UN Security Council or the Committee.</p>
Asset-freeze in relation to designated persons	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 12(1)-	The Republic of Mali (European Union Financial Sanctions)	(c)	<p><b>Low Impact</b></p> <p>The 2017 SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(4)	Regulations 2017 (the "2017 SI")– Reg. 3(1)		<p>In the 2020 UK SI, the term "<i>belonging to</i>" has been removed in relation to designated persons.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on why this term has been removed and whether the terms "<i>owned, held or controlled</i>" are considered by their ordinary definition to cover "<i>belonging</i>".</p>
Asset-freeze in relation to designated persons	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 12(5)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2017 SI previously defined the phrase "<i>deal with</i>" as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition is extended in the 2020 UK SI to add "<i>(whether by pledging them as security or otherwise)</i>".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>
Asset-freeze in relation to designated persons	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 12(6)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 3	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to: (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Asset-freeze in relation to designated persons	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 12(7)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 3	(b)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This extends the scope of the wording in the 2017 SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>
Making funds and economic resources available to designated persons	The Mali (Sanctions) (EU Exit) Regulations 2020 – Regs. 13 and 15	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 4	(c)	<p><b>High Impact</b></p> <p>The 2017 SI states that a person ("P") must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making such funds/economic resources so available.</p> <p>The 2020 UK SI explicitly states making funds/ economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2020 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts<sup>21</sup>. The</p>

<sup>21</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				2020 UK SI does not include a rebuttable presumption.
Exceptions	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 19	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2020 UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest –</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who –</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 19	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where –</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(16),</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(17), and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Finance: exception for authorised conduct in a relevant country	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 20	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI adds an exception for authorised conduct in a relevant country. It states that where a person's conduct in a relevant country would, contravene a prohibition in regulations 12 to 16 ("the relevant prohibition"), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation issued under the law of the relevant country, and for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.</p> <p>A "relevant country" means: any of the Channel Islands, the Isle of Man, or any British overseas territory.</p> <p>Nothing in this regulation impacts the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have a significant impact for financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
National security	The Mali (Sanctions) (EU Exit) Regulations 2020 –Reg. 21	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere. However, this does not affect the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have an impact on financial institutions.</p>
Treasury licences	The Mali (Sanctions) (EU Exit) Regulations 2020 –Reg. 22(1) – (2)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular designated person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2020 UK SI (with different parts of schedule 2 applying for UN-designated persons and non-UN designated persons). Similar restrictions did not apply expressly under the 2015 SI.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Mali (Sanctions) (EU Exit) Regulations 2020 –Reg. 22(3) – (8)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 9	(b)	<p><b>Low Impact</b></p> <p>Under the 2017 SI the Treasury may vary or revoke a licence at any time. The new 2020 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>
Treasury licences	The Mali	The Republic of	(c)	<b>Low Impact</b>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (EU Exit) Regulations 2020 – Reg. 23	Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 9(5)		<p>Under the 2017 SI, a person commits an offence if they "<i>knowingly or recklessly provide information that is false in a material respect or provides or produces a document that is not what it purports to be</i>". The 2020 UK SI adds that this is applicable in the event that the licence is sought "<i>whether for P or anyone else</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information / reporting obligations	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 25	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 15 and Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2017 SI imposed reporting obligations on "relevant institutions" or "relevant business or profession". In the 2020 UK SI this has been replaced with "<i>relevant firm</i>". Regulation 24 in the 2020 UK SI clearly defines what a "<i>relevant firm</i>" is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information / reporting obligations	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 25(4)	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2017 SI required a relevant institution which had a customer who was a designated person to inform the Treasury of the "nature and amount or quantity of any funds or economic resources held by it for the customer." The 2020 UK SI adds "<i>at the time when it first had the knowledge or suspicion</i>" to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Credits to frozen accounts	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 19	The Republic of Mali (European Union Financial Sanctions)	(b) and (c)	<p><b>Medium Impact</b></p> <p>Both the 2017 SI and the 2020 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulations 2017 – Reg. 8 and Schedule		<p>in the 2017 SI the exceptions applied to a "person", whereas in the 2020 UK SI the exceptions apply to "relevant institutions" only, which is defined as a person with Part 4A permission under the Financial Services and Markets Act 2000; and</p> <p>the 2020 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>
Disclosure of information	The Mali (Sanctions) (EU Exit) Regulations 2020 – Reg. 28	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 –Schedule	(b)	<p>Both the 2017 SI and the 2020 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2020 UK SI, including:</p> <p>The 2017 SI authorised the disclosure of information by the Treasury, whereas the 2020 UK SI authorises the disclosure of information by the Treasury <i>or</i> the Secretary of State;</p> <p>Both the 2017 SI and the 2020 UK SI permit disclosure to "any other regulatory body", however, the 2017 SI stated "including those of other Member States", whereas the 2020 UK SI is broader and states "whether or not in the United Kingdom";</p> <p>Both the 2017 SI and the 2020 UK SI permit disclosure to other Governments, however, the 2017 SI stated "the Government of a Member State" whereas the 2020 UK SI is broader and states "the Government of any country";</p> <p>Both the 2017 SI and the 2020 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2020 UK SI also includes the European External Action Service; and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				The 2020 UK SI also has a new category for disclosure which states that disclosure can be made to " <i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i> ".
Consent to prosecute	-	The Republic of Mali (European Union Financial Sanctions) Regulations 2017 – Reg. 14	(a)	The 2017 SI stated that proceedings for offences under the regulations (other than for summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2020 UK SI.

# The Misappropriation (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
				<p>This review covers the new UK SI</p> <p><a href="#">The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (SI 2020/1468)</a></p> <p>Which revokes the following (s.38):</p> <p><a href="#">The Egypt (Asset-Freezing) Regulations 2011 (SI 2011/887)</a></p> <p><a href="#">The Tunisia (Asset-Freezing) Regulations 2011 (SI 2011/888)</a></p> <p><a href="#">The Ukraine (European Union Financial Sanctions) Regulations 2014 (SI 2014/507)</a></p>
Power to designate	The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (the "2020 UK SI") – Reg 5 to 6, 8 to 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out specific designation criteria at Regulation 6 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2011 Tunisia or Egypt SIs or the 2014 Ukraine SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2020 SI.</p>

Ownership and control provisions	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 7		(c)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P -</i></p> <p style="padding-left: 40px;">(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p style="padding-left: 40px;">(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p style="padding-left: 40px;">(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains provisions applying for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2020 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Meaning of “designated person”.	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 10	-	(c)	<p><b>Low Impact</b></p> <p>A “designated person” means a person who is designated under regulation 5 (power to designate persons) for the purposes of regulations 11 to 15 (asset-freeze etc.).</p> <p>Although this is unlikely to have an impact on financial institutions, these institutions should still monitor any new designations under the UK SI.</p>
Asset-freeze in relation to designated persons	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 11(1)-(4)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI) Reg 3(1)</p>	(c)	<p><b>Low Impact</b></p> <p>The Egypt, Tunisia and Ukraine SIs imposed a prohibition on dealing with funds or economic resources “<i>belonging to, or owned, held or controlled by</i>” a designated person.</p> <p>In the 2020 UK SI, the term “<i>belonging to</i>” has been removed in relation to designated persons.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on why this term has been removed and whether the terms “<i>owned, held or controlled</i>” are considered by their ordinary definition to cover “<i>belonging</i>”.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Asset-freeze in relation to designated persons	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 11(5)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>– Reg 3(2)(b)</p>	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the Egypt, Tunisia and Ukraine SIs previously defined the phrase "<i>deal with</i>" as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition is extended in the 2020 UK SI to add "<i>(whether by pledging them as security or otherwise)</i>".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Asset-freeze in relation to designated persons	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 11(6)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI) Reg 3</p>	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to: (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Asset-freeze in relation to designated persons	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 11(7)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI) – Reg 3</p>	(b)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that funds or economic resources are considered “<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>”.</p> <p>This extends the scope of the wording in the Egypt, Tunisia and Ukraine SIs by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Making funds and economic resources available to designated persons	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 12 and 14	The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)  The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)  The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI) – Reg 4 and 6	(c)	<p><b>High Impact</b></p> <p>The Egypt, Tunisia and Ukraine SIs state that a person (“P”) must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making such funds/economic resources so available.</p> <p>The 2020 UK SI explicitly states making funds/ economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2020 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts.<sup>22</sup> The 2020 UK SI does not include a rebuttable presumption.</p>

<sup>22</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 18	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2020 UK SI sets out the following new exception:</p> <p><i>(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest –</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p> <p><i>(2) In paragraph (1) “independent person” means a person who –</i></p> <p><i>(a) is not the designated person, and</i></p> <p><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Exceptions	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 18	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(6) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where –</i></p> <ul style="list-style-type: none"> <li><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(16),</i></li> <li><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(17), and</i></li> <li><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></li> </ul> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Finance: exception for authorised conduct in a relevant country	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 19	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI adds an exception for authorised conduct in a relevant country. It states that where a person’s conduct in a relevant country would, contravene a prohibition in regulations 11 to 15 (asset freeze etc) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation issued under the law of the relevant country, and for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.</p> <p>A “relevant country” means: any of the Channel Island, the Isle of Man, or any British overseas territory.</p> <p>Nothing in this regulation impacts the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have a significant impact for financial institutions.</p>
National security	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 –Reg. 20	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere. However, this does not affect the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have an impact on financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Treasury licences	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 –Reg. 21(1) – (2)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Reg 9</p>	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular designated person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2020 UK SI. Similar restrictions did not apply expressly under the Egypt, Tunisia and Ukraine SIs.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Treasury licences	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 –Reg. 21(3) – (6)	The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)  The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)  The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)  Reg 9	(b)	<p><b>Low Impact</b></p> <p>Under the Egypt, Tunisia and Ukraine SIs, the Treasury may vary or revoke a licence at any time. The new 2020 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Licensing offences	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 –Reg. 22	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Reg 9(5)</p>	(c)	<p><b>Low Impact</b></p> <p>Under the Egypt, Tunisia and Ukraine SIs, a person commits an offence if they “<i>knowingly or recklessly provide information that is false in a material respect or provides or produces a document that is not what it purports to be</i>”. The 2020 UK SI adds that this is applicable in the event that the licence is sought “<i>whether for P or anyone else</i>”.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Information / reporting obligations	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 24	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Reg 15 and Schedule</p>	(c)	<p><b>Low Impact</b></p> <p>The Egypt, Tunisia and Ukraine SIs imposed reporting obligations on “relevant institutions” or “relevant business or profession”. In the 2020 UK SI this has been replaced with “<i>relevant firm</i>”. Regulation 25 in the 2020 UK SI clearly defines what a “<i>relevant firm</i>” is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Information / reporting obligations	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 24(4)	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Schedule</p>	(c)	<p><b>Low Impact</b></p> <p>The Egypt, Tunisia and Ukraine SIs required a relevant institution which had a customer who was a designated person to inform the Treasury of the “nature and amount or quantity of any funds or economic resources held by it for the customer.” The 2020 UK SI adds “<i>at the time when it first had the knowledge or suspicion</i>” to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Credits to frozen accounts	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 18	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Reg 8 and Schedule</p>	(b) and (c)	<p><b>Medium Impact</b></p> <p>The Egypt, Tunisia and Ukraine SIs and the 2020 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p> <ul style="list-style-type: none"> <li>- in the Ukraine SI the exceptions applied to a “person”, whereas in the Egypt, Tunisia and 2020 UK SI the exceptions apply to “relevant institutions” only, which is defined as a person with Part 4A permission under the Financial Services and Markets Act 2000; and</li> <li>- the 2020 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</li> </ul> <p>Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Disclosure of information	The Mis-appropriation (Sanctions) (EU Exit) Regulations 2020 – Reg 29	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Schedule</p>	(b)	<p>The Egypt, Tunisia and Ukraine SIs and the 2020 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2020 UK SI, including:</p> <ul style="list-style-type: none"> <li>- The Egypt, Tunisia and Ukraine SIs authorised the disclosure of information by the Treasury, whereas the 2020 UK SI authorises the disclosure of information by the Treasury <i>or</i> the Secretary of State;</li> <li>- The Egypt, Tunisia and Ukraine SIs and the 2020 UK SI permit disclosure to “any other regulatory body”, however, the Egypt, Tunisia and Ukraine SIs stated “including those of other Member States”, whereas the 2020 UK SI is broader and states “whether or not in the United Kingdom”;</li> <li>- The Egypt, Tunisia and Ukraine SIs and the 2020 UK SI permit disclosure to other Governments, however, the Egypt, Tunisia and Ukraine SIs stated “the Government of a Member State” whereas the 2020 UK SI is broader and states “the Government of any country”;</li> <li>- The Egypt, Tunisia and Ukraine SIs and the 2020 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2020 UK SI also includes the European External Action Service; and</li> <li>- The 2020 UK SI also has a new category for disclosure which states that disclosure can be made to “<i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i>”.</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact?
Consent to prosecute	-	<p>The Egypt (Asset-Freezing) Regulations 2011 (Egypt SI)</p> <p>Reg 16</p> <p>The Tunisia (Asset-Freezing) Regulations 2011 (Tunisia SI)</p> <p>Reg 16</p> <p>The Ukraine (European Union Financial Sanctions) Regulations 2014 (Ukraine SI)</p> <p>Reg 14</p>	(a)	<p>The Egypt, Tunisia (Reg 16) and Ukraine (Reg 14) SIs stated that proceedings for offences under the regulations (other than for summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2020 UK SI.</p>

# Moldova

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
–	–	–	–	<b>Low Impact</b>  The EU sanctions regime in respect of Moldova only comprises travel bans in relation to persons involved in the campaign against Latin-script schools in Moldova. There is no UK implementing legislation in respect of Moldova.

# The Nicaragua (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Definitions	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18(7) and (8)	The Nicaragua (Asset- Freezing) Regulations 2019, Reg. 2(1) and (2)	(c) (a)	<p><b>Low Impact</b></p> <p>The Nicaragua (Sanctions) (EU Exit) Regulations (the "UK SI") amended the definition of "relevant institution" contained in the Nicaragua (Asset-Freezing) Regulations 2019 (the "EU Financial Services SI") by removing the references to "<i>an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers</i>".</p> <p>The entities listed under (c) have been moved to the definition of "relevant firm" for the purpose of notification obligations under reg. 23</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, it limits the scope of the entities that can rely on the exemptions from the relevant prohibitions (i.e. payment institutions and e-money issuers cannot rely on some of the exemptions in Reg. 18).</p>
Definitions	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 2	The Nicaragua (Asset- Freezing) Regulations 2019, Reg. 1(3)	(c) (a)	<p><b>Low Impact</b></p> <p>The UK SI introduces a broader definition of "United Kingdom person" referring to section 21 of the Sanctions and Anti-Money Laundering Act 2018, which defined UK person as "an individual who is a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, a person who under the British Nationality Act 1981 is a British subject, or a British protected person within the meaning of that Act".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The EU Financial Services SI uses the term "UK national" which refers to <i>a British citizen, a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or a British subject under Part 4 of the British Nationality Act 1981 (British subjects) with the right of abode in the United Kingdom.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Definitions	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 5, 6, 8, 10	The Nicaragua (Asset- Freezing) Regulations 2019, Reg. 2(1)	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains an amended definition of "designated person".</p> <p>The EU Financial Services SI previously referred to the specified list contained in Annex I of the Council Regulation (EU) 2019/1716 of 14th October 2019 ("<b>EU Regulation on Nicaragua</b>"). The UK SI does not refer to any specified list and instead refers to the regulation 5 that allows the Secretary of State to designate persons by name following prescribed designation criteria under regulation 6. In addition, regulation 8 contains requirements around notification of any designated persons and publication of its decision on designation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, financial institutions will need to ensure that they monitor announcements in relation to new designated persons and promptly reflect any required changes to the list of designated persons held at the financial institution.</p>
Confidentiality	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 9	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains new requirements around confidentiality of information with respect to designated persons. The Secretary of State may inform only certain persons of a designation, variation or revocation and may specify that any of that information is to be treated as confidential.</p> <p>Any person that is provided with information that is to be treated as confidential in</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>accordance with the directions from the Secretary of State, or where a person otherwise obtains such information, must not disclose such information if he knows, or has reasonable cause to suspect, that the information is to be treated as confidential (subject to permitted lawful disclosures). It is a criminal offence to contravene this requirement.</p> <p>Regulation 30(2) contains penalties for the above requirements.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, financial institutions will be required to update their internal compliance systems and controls to ensure that any information about designated persons that is received on the basis of the above is kept confidential.</p>
Asset freeze in relation to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 11(1)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Nicaragua (Asset-Freezing) Regulations 2019 (the "EU Financial Services SI") imposes a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new Nicaragua (Sanctions) (EU Exit) Regulations 2020 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 11(5)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions will need to ensure that their policies and procedures take into account this amended definition.</p>
Asset freeze in relation to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 11(6)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 3(2)	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions will need to ensure that their policies and procedures take into account this amended definition.</p>
Asset freeze in relation to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 11(7)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 3(2)	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person <u>if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</u></i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.
Asset freeze in relation to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18(1)-(2)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 12(4)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<b><i>available to a person who is owned or controlled directly or</i></b></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				<i>indirectly (within the meaning of regulation 7) by the designated person"</i> (emphasis added).  This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts. Therefore, financial institutions will need to update their policies and procedures.
Prohibition on making funds and economic resources available to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 14(4)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 6	(b)	<b>Potentially High Impact</b>  For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made " <i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person"</i> (emphasis added).  This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts. Therefore, financial institutions will need to update their policies and procedures.
Ownership and control provisions	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 7	-	(c)	<b>Potentially High Impact</b>  The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be " <i>owned or controlled directly or indirectly</i> " by another person if either of two conditions are met.  (1) <i>In this Part a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i>  (2) <i>The first condition is that P—</i>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) holds directly or indirectly more than 50% of the shares in C,</p> <p>(b) holds directly or indirectly more than 50% of the voting rights in C, or</p> <p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18(3)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 8(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions</i> (i.e. firms with Part 4A permission under FSMA) only. The exception used to apply to explicitly to "persons" which was an undefined term,</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
designated persons				<p>Regulation 8(4) framed the exception in the context of accounts with <i>relevant institutions</i>, implying that it applied only to firms with Part 4A permission under FSMA.</p> <p>Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. We note that the amendment of the scope of this exception appears to be only a technical change and that other financial entities such as payment institutions and e-money institutions will not be able to avail themselves of this exception.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18(5)	The Nicaragua (Asset- Freezing) Regulations 2019, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened <i>by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18	The Nicaragua (Asset- Freezing) Regulations	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Financial Services SI allowing a person to credit a</p>

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on making funds and economic resources available to designated persons		2019, Reg. 8(1)(c)		frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the UK without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.  This change will need to be reflected in internal policies and procedures.
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 18(6)	The Nicaragua (Asset- Freezing) Regulations 2019, Reg. 8	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. This will provide an exception for ring-fenced entities who carry out dealing in investments as principal.</p>
Treasury	The Nicaragua	The Nicaragua	(b)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Licences	(Sanctions) (EU Exit) Regulations 2020, Reg. 20(2)	(Asset-Freezing) Regulations 2019, Reg. 9		<p>The UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 20(4)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may <i>vary or revoke a licence</i> at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>
Treasury Licences	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 21(1)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 23(5)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 8(3)	(b)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with interest or other earnings due on the account.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay whenever they credit an account in accordance with regulation 18(4) (where they receive funds</p>

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				<p>transferred to that institution for crediting to a frozen account) or transfer funds from a frozen account in accordance with regulation 18(6).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions must ensure that their policies and procedures reflect the amended requirements.</p>
Information Obligations	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 23(4)	The Nicaragua (Asset-Freezing) Regulations 2019, Schedule 1(4)	(c)	<p><b>Low Impact</b></p> <p>The UK SI specifies that relevant firm must state the nature and amount or quantity of any funds or economic resources held by it for the customer <i>at the time when it first had the knowledge or suspicion</i>. The EU Financial Services SI did not have a reference to "at the time when it first had the knowledge or suspicion".</p> <p>Whilst this is a helpful clarification which is unlikely to have a material impact on financial institutions, financial institutions will need to ensure that they keep appropriate records to enable them to reporting the relevant figures "at the time when they first had the knowledge or suspicion".</p>
Offences	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 30(3)	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 12(2)	(c)	<p><b>Low Impact</b></p> <p>The UK SI amends the penalties for breaches of reporting obligations (Reg. 23(1),(2) or (4)) and information offences (Reg. 27) to:</p> <p>on summary conviction in England and Wales, to imprisonment for a term not <i>exceeding six months</i> or a fine (or both) (instead of the 12 months);</p> <p>on summary conviction in Scotland, to imprisonment for a term not <i>exceeding six months</i> or a fine not exceeding <i>level five on the standard scale</i> (or both) (instead of the 12 months and a fine up to the statutory maximum);</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine <i>not exceeding level five on the standard scale</i> (or both) (instead of the statutory maximum).</p> <p>The UK SI also amended the penalties for offences related to trade controls.</p>
Powers to request information	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 25	The Nicaragua (Asset-Freezing) Regulations 2019, Schedule 2(2), (5)	(b)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI allowed the Treasury to request information from the designated person about expenditure by <i>or on behalf of</i> the designated person. The UK SI does not contain a reference to "<i>on behalf of</i>" and instead it contains a clarification that "<i>expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>In addition, the UK SI clarifies that the Treasury may request a person to provide specified information if the Treasury believe that the person may be able to provide the information. The right to request information is no longer limited to "<i>any person in or resident in the United Kingdom</i>" that was contained in the EU Financial Services SI.</p> <p>The UK SI also contains an additional purpose for which information can be requested by the Treasury (for "<i>detecting</i>" evidence of the commission of an offence).</p> <p>These changes are unlikely to have a material impact on the obligations of financial institutions.</p>
Proceedings	The Nicaragua (Sanctions) (EU Exit) Regulations 2020, Reg. 33, 34	The Nicaragua (Asset-Freezing) Regulations 2019, Reg. 13(7)	(c)	<p><b>Low Impact</b></p> <p>The UK SI clarifies that where it is alleged that an offence has been committed by an unincorporated body (as opposed to by a member of the body), proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>name. A fine imposed on an unincorporated body on its conviction of an offence is to be paid out of the funds of the body.</p> <p>The UK SI clarifies that with respect to the enforcement proceedings <i>a certificate purporting to be so signed</i> by the prosecutor <i>is to be treated as being so signed unless the contrary is proved</i>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as they tend to be incorporated as bodies corporate.</p>

# The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Ownership and control	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 7	–	(c)	<p><b>High Impact</b></p> <p>The Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600 (the <b>UK Belarus SI</b>) provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met:</p> <p>(1) <i>"A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes."</i></p>

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				<p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Designation of persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 8(6)	–	(c)	<p><b>Low Impact</b></p> <p>The UK Belarus SI sets out certain notification and publication requirements that the Secretary of State must follow if they have made, varied or revoked a designation. This includes taking steps to publicise generally the designation, variation or revocation and, in the case of a designation, the statement of reasons. If, however, "<i>one or more of the restricted publicity conditions is met</i>", the relevant publication steps are "<i>steps to inform such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons</i>" (emphasis added). The restricted publicity conditions include when the person being designated is believed by the Secretary of State to be a person under 18 or if the Secretary of State considers that the disclosure should be restricted: (i) in the interests of national security or international relations; or (ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or in the interests of justice.</p> <p>The ability to restrict the disclosure of a designation, variation or revocation is new under the UK Belarus SI.</p> <p>This change may have an impact on financial institutions to the extent that an institution deals with a designated person who has not been publicly disclosed. As each of the asset-freeze offences under the UK Belarus SI requires a person to know or have reasonable cause to suspect that they are dealing with a designated person, it is unlikely that a financial institution would commit an offence if they dealt with a designated person that had not been publicly disclosed by the Secretary of State through the required means. However, dealing with a designated person in such circumstances may put a UK financial institution in breach of its</p>

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				contractual obligations (depending on how they are drafted).
Designation of persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 9	–	(b)	<p><b>Low Impact</b></p> <p>The UK Belarus SI provides that if the Secretary of State, in accordance with Regulation 8(6)(b), informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.</p> <p>If a person receives such confidential information, there are restrictions on their ability to disclose such information (except if any disclosure is made with lawful authority).</p> <p>This is a new requirement as there was not previously the ability to restrict the disclosure of a designation, variation or revocation. To the extent that a financial institution was provided with confidential information by the Secretary of State, the financial institution would need to ensure that it complies with the relevant confidentiality requirements.</p>
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 11(1)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Belarus (Asset-Freezing) Regulations 2013/164 (the <b>EU Belarus Financial Services SI</b>) imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the UK Belarus SI to remove the reference to funds or economic resources "<i>belonging to</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated	Republic of Belarus (Sanctions) (EU Exit) Regulations	Belarus (Asset-Freezing) Regulations 2013/164,	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Belarus Financial Services SI previously defined</p>

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persons	2019/600, Regulation 11(5)(b)	Regulation 3(2)(b)		<p>the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK Belarus SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 11(6)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Belarus SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 11(7)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Belarus SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Belarus Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>

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Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 30(1)-(2)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Belarus SI sets out the following new exception:</p> <p>(1) <i>"The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent</i></p> <p>(2) <i>person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(3) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person."</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 30(3)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Belarus Financial Services SI provides that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the UK Belarus SI. First, the exception now</p>

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				expressly applies to " <i>relevant institutions</i> " ( <i>i.e. firms with Part 4A permission under FSMA</i> ) only. Secondly, under the UK Belarus SI this exception applies to the " <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i> ", as well as the prohibitions on making funds available to or for the benefit of a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions.
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 30(5)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 8(1)(b)	(c)	<b>Low Impact</b>  The EU Belarus Financial Services SI provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.  The scope of this exception has been amended in the UK Belarus SI. Under the UK Belarus SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions.
Financial restrictions in relation to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 30(6)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 8	(a)	<b>Low Impact</b>  The UK Belarus SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:  <i>(1) "The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i>

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				<p>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</p> <p>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</p> <p>(c) accounts A and B are held or controlled (directly or indirectly) by P."</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Prohibition on making funds and economic resources available to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 12(4)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK Belarus SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit that this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 14(4)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK Belarus SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p>

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				This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit that this presumption could be rebutted on the facts.
Trade – restricted goods and restricted technology	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 26	Export Control (Belarus) and (Syria Amendment) Order 2011/2010, Article 2(d)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Belarus SI creates prohibitions on the provision of "<i>financial services</i>" and "<i>funds</i>" in relation to "<i>restricted goods</i>" and "<i>restricted technology</i>". The prohibitions related to such goods and technology are broken down into providing financial services and funds in relation to the following categories of activity: (i) the export of restricted goods; (ii) the direct or indirect supply or delivery of restricted goods; (iii) directly or indirectly making restricted goods or restricted technology available to a person; (iv) the transfer of restricted technology; or (v) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</p> <p>The prohibitions in Regulations 26(1), (2) and 3 relate to the provision to "<i>a person connected with Belarus</i>", "<i>for use in Belarus</i>" or "<i>to a place in Belarus</i>".</p> <p>"<i>A person connected with Belarus</i>" is defined in Regulation 20(4) as follows:</p> <p>(a) "<i>an individual who is, or an association or combination of individuals who are, ordinarily resident in Belarus,</i></p> <p>(b) "<i>an individual who is, or an association or combination of individuals who are, located in Belarus,</i></p> <p>(c) "<i>a person, other than an individual, which is incorporated or constituted under the law of Belarus, or</i></p> <p>(d) "<i>a person, other than an individual, which is domiciled in Belarus.</i>"</p>

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				<p>This is in contrast to the approach taken in Council Regulation (EC) No 765/2006 (the <b>EU Belarus Regulation</b>) which underpins the relevant criminal offence in Article 2(d) of the Export Control (Belarus) and (Syria Amendment) Order 2011/2010 (the <b>EU Belarus Export Control Order</b>). Article 1b(1)(c) of the EU Belarus Regulation prohibits the provision "<i>directly or indirectly [of] financing or financial assistance <b>related to</b> the goods and technology listed in the Common Military List or in Annex III, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of such items, or for any provision of related technical assistance to any person, entity or body in Belarus or for use in Belarus</i>" (emphasis added).</p> <p>A number of differences are apparent:</p> <p>"<i>Restricted goods</i>" and "<i>restricted technology</i>" in the UK Belarus SI are, <i>inter alia</i>, defined by reference to the list in Schedule 2 to the Export Control Order 2008 and Schedule 2 to the UK Belarus SI (other than anything listed in Schedule 2 to the Export Control Order 2008 or Annex I to Council Regulation (EC) No 428/2009). In contrast, Article 2(d) of the EU Belarus Export Control Order creates offences in relation to the provision of financing and financial assistance in connection to the goods and technologies set out in the EU Common Military List and Annex III of the EU Belarus Regulation. Financial institutions will need to update their compliance processes to cross-check against, <i>inter alia</i>, Schedule 2 to the Export Control Order 2008, which is broader than the EU Common Military List, and Schedule 2 to the UK Belarus SI.</p> <p>The EU Belarus Regulation provides that the prohibitions in Article 1b(1)(c) shall not apply to:</p> <ul style="list-style-type: none"> <li>non-lethal military equipment, or equipment which might be used for internal repression, intended solely for humanitarian purposes or protective use or for institution building programmes of the UN and the Union, or for EU or UN crisis management operations; and</li> </ul>

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				<p>non-combat vehicles fitted with materials to provide ballistic protection, intended solely for the protective use of personnel of the Union and its Member States in Belarus,</p> <p>provided that the provision thereof has first been approved by the competent authority of a Member State, as identified on the websites listed in Annex II.</p> <p>The prohibitions also do not apply to rifles and ammunition and sights that are listed in Annex IV and which also comply with the specifications for biathlon equipment as defined in the event and competition rules of the IBU and are intended exclusively for use in biathlon events and training. There are also further derogations available in respect of certain sporting rifles, sporting pistols and their ammunition has listed in Annex V.</p> <p>These exemptions have not been included in the new UK Belarus SI. Rather, to the extent that a financial institution relied on such an exemption, it would need to apply for a trade licence to authorise its activities. Guidance published by the UK Government suggests that the above situations are reasons for which a licence may be granted (as they are specific activities that the Department for International Trade considers are likely to be consistent with the aims of the sanctions). The issuance of a licence is, therefore, not guaranteed under the UK Belarus SI.</p> <p>It is arguable that the prohibition in Article 1b(1)(c) of the EU Belarus Regulation is narrower than those contained in Regulations 26(1), (2) and (3) of the UK Belarus SI. This is because, for example, it is arguable that "<i>indirectly</i>" making funds available "in pursuance of or in connection with" "<i>technical assistance relating to restricted goods</i>", which is prohibited by Regulation 26(1)(e) read with Regulation 26(2) of the UK Belarus SI, would not be considered to be providing "<i>financing</i>" "<i>related to</i>" goods and technology listed in the Common Military List or Annex III under Article 1b(1)(c) of the EU Belarus Regulation, unless as extremely expansive reading of that article is taken.</p>

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				<p>The definition of "<i>a person connected with Belarus</i>" is broader than Article 1b(1)(c) of the EU Belarus Regulation.</p> <p>"<i>Financial services</i>" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in Regulation 26(1) is, in this respect, materially broader than the offence in Article 2(d) of the EU Belarus Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "<i>restricted goods</i>" and "<i>restricted technology</i>", as well as increasing the due diligence burden.</p>
Trade – restricted goods and restricted technology	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 27	Export Control (Belarus) and (Syria Amendment) Order 2011/2010, Article 2(c)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Belarus SI prohibits the provision, directly or indirectly, of:</p> <p>"brokering services in relation to an arrangement ... whose object or effect is –</p> <p>...</p> <p>(a) <i>the direct or indirect provision, in a non-UK country, of financial services –</i></p> <p>(i) <i>to a person connected with Belarus, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or</i></p> <p>(ii) <i>where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(3),</i></p> <p>(b) <i>directly or indirectly making funds available, in a non-UK country, to a person connected with Belarus, where arrangement A, or any other arrangement in</i></p>

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				<p><i>connection with which arrangement A is entered into, is an arrangement mentioned in regulation 26(1), or</i></p> <p><i>(c) 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 26(3)..."</i></p> <p>"<i>Brokering services</i>" is then defined in the UK Belarus SI as follows:</p> <p>"any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—</p> <p><i>(a) the selection or introduction of persons as parties or potential parties to the arrangement,</i></p> <p><i>(b) the negotiation of the arrangement,</i></p> <p><i>(c) the facilitation of anything that enables the arrangement to be entered into, and</i></p> <p><i>(d) the provision of any assistance that in any way promotes or facilitates the arrangement[.]"</i></p> <p>In contrast, Article 2(c) of the EU Belarus Export Control Order creates an offence in relation to the provision of "<i>brokering services related to Annex III [to the EU Belarus Regulation] equipment to any legal person, entity or body in Belarus or for use in Belarus</i>". Neither the EU Belarus Export Control Order nor the EU Belarus Regulation define "<i>brokering services</i>".</p> <p>The meaning of "<i>brokering</i>" in the UK Belarus SI could therefore be seen as broader than that contained in Article 1b(1)(d) of the EU Belarus Regulation. This may affect financial institutions to the extent that they engage in any brokering activities related to the substantive</p>

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				<p>prohibitions.</p> <p>Likewise, the prohibitions in Regulation 27(1) of the UK Belarus SI are broader than those in Article 2(c) of the EU Belarus Export Control Order. This is because Article 2(c) of the EU Belarus Export Control Order does not expressly prohibit the provision of "<i>brokering services</i>" in relation to "<i>financial services</i>" (Regulation 27(1)(f)), "<i>making funds available</i>" (Regulation 27(1)(g)) and the "<i>provision of funds</i>" (Regulation 27(1)(h)).</p> <p>Regulations 27(1)(f) and (g) refer to "<i>a person connected to Belarus</i>". This is broader than Article 2(c) of the EU Belarus Export Control Order.</p>
Treasury and trade licences	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 32	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 9	(b)	<p><b>Low Impact</b></p> <p>The UK Belarus SI limits the ability of the Treasury to issue a licence authorising acts in relation to prohibitions in Regulations 11 to 15 (assets-freeze etc.) to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 3 to the UK Belarus SI. Similar restrictions did not apply expressly under the EU Belarus Financial Services SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury and trade licences	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 34(5)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Belarus Financial Services SI, the Treasury may vary or revoke a licence at any time. The new UK Belarus SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury and trade licences	Republic of Belarus (Sanctions) (EU Exit) Regulations	Belarus (Asset-Freezing) Regulations 2013/164,	(c)	<p><b>Low Impact</b></p> <p>Under the EU Belarus Financial Services SI, a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport</p>

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	2019/600, Regulation 35(1)	Regulation 9(5)		to be, for the purpose of obtaining a Treasury licence. The UK Belarus SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury and trade licences	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 36(1)	Export Control (Belarus) and (Syria Amendment) Order 2011/2010, Article 3(1)  Export Control Order 2008, Article 37(1)	(c)	<b>Low Impact</b>  Under the EU Belarus Export Control Order and Export Control Order 2008, a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a trade licence. The UK Belarus SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Treasury and trade licences	Republic of Belarus (Sanctions) (EU Exit) Regulations 2019/600, Regulation 38(5)	Belarus (Asset-Freezing) Regulations 2013/164, Regulation 8(3)	(c)	<b>Medium Impact</b>  The EU Belarus Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned.  Under the UK Belarus SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with Regulation 30(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Regulation 30(6).
Enforcement	Republic of Belarus	Belarus (Asset-Freezing)	(b)	<b>Low Impact</b>

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	(Sanctions) (EU Exit) Regulations 2019/600, Regulation 48	Regulations 2013/164, Regulation 12  Export Control Order 2008/3231, Article 38		<p>Regulation 48 of the UK Belarus SI sets out the penalties for offences committed under the UK Belarus SI. Such penalties largely mirror those set out under existing regulations, although there are a couple of changes. For instance, the penalties for a summary conviction under Regulation 48(3) have increased to a maximum term of imprisonment of 12 months (compared to a maximum of three months). The penalties for a summary conviction under Regulations 48(4)(a) and (b) have, however, decreased to a maximum term of imprisonment of six months (compared to a maximum of 12 months).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Power to designate	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 (the "2019 UK SI") – Regs. 5 to 6, Regs. 8 and 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out specific designation criteria at Regulation 4 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the 2012 SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2019 SI.</p>
Ownership and control provisions	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 7	-	(c)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2019 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
Asset-freeze in relation to designated persons	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(1)-(4), Reg. 11(6)	The Guinea-Bissau (Asset-Freezing) Regulations 2012 (the "2012 SI") - Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>In the 2019 UK SI, the term "<i>belonging to</i>" has been removed in relation to designated persons.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on why this term has been removed and whether the terms "<i>owned, held or controlled</i>" are considered by their ordinary definition to cover "<i>belonging</i>".</p>
Asset-freeze in relation to designated persons	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations	The Guinea-Bissau (Asset-Freezing) Regulations	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2012 SI previously defined the phrase "<i>deal with</i>" as the</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019 – Reg. 11(5)	2012 - Reg. 3(2)		<p>"exchange, or use in exchange, for funds, goods or services".</p> <p>This definition is extended in the 2019 UK SI to add "(whether by pledging them as security or otherwise)".</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>
Asset-freeze in relation to designated persons	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(6)	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Reg. 3	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset-freeze in relation to designated persons	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 11(7)	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Reg. 3	(b)	<p><b>High Impact</b></p> <p>The 2019 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This extends the scope of the wording in the 2012 SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Making funds and economic resources available to designated persons	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Regs. 12 and 14	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>The 2012 SI states that a person ("P") must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds/economic resources so available.</p> <p>The 2019 UK SI explicitly states making funds/economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2019 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts<sup>23</sup>. The 2019 UK SI does not include a rebuttable presumption.</p>
Exceptions	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2019 UK SI sets out the following new exception:</p> <p><i>(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p>

<sup>23</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p><i>(a) is not the designated person, and</i></p> <p><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	-	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(1) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions	The Republic of	-	(b)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 19			<p>The 2019 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere.</p> <p>This is unlikely to have an impact on financial institutions.</p>
Treasury licences	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Regs. 20, 21 and Schedule 2	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The 2019 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2019 UK SI. Similar restrictions did not apply expressly under the 2012 SI.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 21(4)-(7)	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the 2012 SI the Treasury may vary or revoke a licence at any time. The new 2019 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>
Treasury licences	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 22	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the 2012 SI, a person commits an offence if they "<i>knowingly or recklessly provides information that is false in a material respect, or provides or produces a document that is not what it purports to be.</i>" The 2019 UK SI adds that this is applicable in the event that the licence is sought "<i>whether for P or anyone else</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Reporting obligations	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 24	The Guinea-Bissau (Asset-Freezing) Regulations 2012 – Reg. 11 and Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI imposed reporting obligations on "relevant institutions" or "<i>relevant business or profession</i>". In the 2019 UK SI this has been replaced with "relevant <i>firm</i>". Regulation 24 in the 2019 UK SI clearly defines what a "<i>relevant firm</i>" is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Reporting obligations	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 24(4)	The Guinea-Bissau (Asset-Freezing) Regulations 2012 - Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2012 SI required relevant institutions which had a customer who was a designated person to inform the treasury of the "nature and amount or quantity of any funds or economic resources held by it for the customer". The 2019 UK SI adds "<i>at the time when it first had the knowledge or suspicion</i>" to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Credits to frozen accounts	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 18	The Guinea-Bissau (Asset-Freezing) Regulations 2012 – Reg. 8 and Schedule	(b) and (c)	<p><b>Medium impact</b></p> <p>Both the 2012 SI and the 2019 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p> <p>in the 2012 SI the exceptions applied to "a person", whereas in the 2019 UK SI the exceptions apply to "relevant institutions" only, which is defined as a person with Part 4A permission under the Financial services and Markets Act 2000; and</p> <p>the 2019 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.
Disclosure of information	The Republic of Guinea-Bissau (Sanctions) (EU Exit) Regulations 2019 – Reg. 29	The Guinea-Bissau (Asset-Freezing) Regulations 2012 – Schedule	(b)	<p>Both the 2012 SI and the 2019 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2019 UK SI, including:</p> <p>The 2012 SI authorised the disclosure of information by the Treasury, whereas the 2019 UK SI authorises the disclosure of information by the Treasury <i>or the Secretary of State</i>;</p> <p>The 2012 SI permitted the disclosure of information to "the Scottish Legal Aid Board or the Northern Ireland Legal Services Commission". The 2019 UK SI only authorises disclosure to the Scottish Legal Aid Board but does not include the Northern Ireland Legal Services Commission specified in the 2012 SI</p> <p>Both the 2012 SI and the 2019 UK SI permit disclosure to other Governments, however, the 2012 SI stated "the Government of a Member State" whereas the 2019 UK SI is broader and states "the Government of any country";</p> <p>Both the 2012 SI and the 2019 UK SI permit disclosure to the Council of the European Union and the European Commission, however the 2019 UK SI also includes the European External Action Service;</p> <p>The 2019 UK SI permits disclosure to "any other regulatory body (whether or not in the UK)"; and</p> <p>The 2019 UK SI also has a new category for disclosure which states that disclosure can be made to "<i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i>"</p>
Consent to	-	The Guinea-	(a)	The 2012 SI stated that proceedings for offences under the regulations (other than for

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
prosecute		Bissau (Asset-Freezing) Regulations 2012 – Reg. 15		summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2019 UK SI.

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# The Russia (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Ownership and control	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 7	–	(c)	<p><b>High Impact</b></p> <p>The new Russia (Sanctions) (EU Exit) Regulations 2019/855 (the <b>UK Russia SI</b>) provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met:</p> <p>(1) <i>"A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains the provision which applies for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes."</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Designation of persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 8(6)	–	(c)	<p><b>Low Impact</b></p> <p>The UK Russia SI sets out certain notification and publication requirements that the Secretary of State must follow if they have made, varied or revoked a designation. This includes taking steps to publicise generally the designation, variation or revocation and, in the case of a designation, the statement of reasons. If, however, "<i>one or more of the restricted publicity conditions is met</i>", the relevant publication steps are "<i>steps to inform such persons as the Secretary of State considers appropriate of the designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons</i>" (emphasis added). The restricted publicity conditions include when the person being designated is believed by the Secretary of State to be a person under 18 or if the Secretary of State considers that the disclosure should be restricted: (i) in the interests of national security or international relations; or (ii) for reasons connected with the prevention or detection of serious crime in the United Kingdom or elsewhere, or in the interests of justice.</p> <p>The ability to restrict the disclosure of a designation, variation or revocation is new under the UK Russia SI.</p> <p>This change may have an impact on financial institutions to the extent that an institution deals with a designated person who has not been publicly disclosed. As each of the asset-freeze offences under the UK Russia SI requires a person to know or have reasonable cause to suspect that they are dealing with a designated person, it is unlikely that a financial institution would commit an offence if they dealt with a designated person that had not been publicly disclosed by the Secretary of State through the required means. However, dealing with a designated person in such circumstances may put a UK financial institution in</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				breach of its contractual obligations (depending on how they are drafted).
Designation of persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 9	–	(b)	<p><b>Low Impact</b></p> <p>The UK Russia SI provides that if the Secretary of State, in accordance with Regulation 8(6)(b), informs only certain persons of a designation, variation or revocation and (in the case of a designation) of the contents of the statement of reasons, the Secretary of State may specify that any of that information is to be treated as confidential.</p> <p>If a person receives such confidential information, there are restrictions on their ability to disclose such information (except if any disclosure is made with lawful authority).</p> <p>This is a new requirement as there was not previously the ability to restrict the disclosure of a designation, variation or revocation. To the extent that a financial institution was provided with confidential information by the Secretary of State, the financial institution would need to ensure that it complies with the relevant confidentiality requirements.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 11(1)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693 (the <b>EU Russia Financial Services SI</b>) imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the UK Russia SI to remove the reference to funds or economic resources "<i>belonging to</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation	Ukraine (European Union Financial Sanctions) (No	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Russia Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	11(5)(b)	2) Regulations 2014/693, Regulation 3(2)(b)		<p><i>funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK Russia SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 11(6)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Russia SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 11(7)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Russia SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Russia Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 58(1)-(2)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK Russia SI sets out the following new exception:</p> <p>(1) <i>"The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;"><i>(a) is held by P, and</i></p> <p style="padding-left: 40px;"><i>(b) is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;"><i>(a) is not the designated person, and</i></p> <p style="padding-left: 40px;"><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person."</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 58(3)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693,	(c)	<p><b>Low Impact</b></p> <p>The EU Russia Financial Services SI provides that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the UK Russia SI. First, the exception now expressly applies to "<i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i>"</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulation 8(1)(a)		<p>only. Secondly, under the UK Russia SI this exception applies to the "<i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>", as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 58(5)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Russia Financial Services SI provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the UK Russia SI. Under the UK Russia SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 58(6)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 8	(a)	<p><b>Low Impact</b></p> <p>The UK Russia SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>"The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</p> <p>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</p> <p>(c) accounts A and B are held or controlled (directly or indirectly) by P."</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Financial restrictions in relation to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 58	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Russia Financial Services SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p>
Prohibition on making funds and economic resources available to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 12(4)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK Russia SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated</p>

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				person, albeit that this presumption could be rebutted on the facts.
Prohibition on making funds and economic resources available to designated persons	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 14(4)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK Russia SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is <b>owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</b></i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit that this presumption could be rebutted on the facts.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 16(1) and 16(9)	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054, Regulations 3(1) and 3A(1)	(c)	<p><b>Low Impact</b></p> <p>The Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054 (the <b>EU Russia Sectoral Sanctions SI</b>) contain an exhaustive list of prohibited services in relation to transferable securities and money-market instruments.</p> <p>In contrast, the UK Russia SI's definition of "<i>dealing with</i>" is non-exhaustive.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as Regulation 3(1) of the EU Russia Sectoral Sanctions SI was already capable of being expansively interpreted.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 16(2)(b) and (c), 16(4)(b) and (c)	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054,	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Sectoral Sanctions SI prohibits certain financial and investment activities with a number of expressly targeted Russian entities as well as: (i) a legal person, entity or body established "<i>outside the European Union</i>", more than 50% of the proprietary rights of which are directly or indirectly owned by an expressly targeted Russian entity, or (ii) a legal person, entity or body acting on behalf of, or at the direction of, an expressly targeted Russian entity</p>

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	and 17(5)	Regulations 3(2)(b)-(c), 3A(2)(d)-(e) and 3B(1)		<p>or an entity caught by limb (i).</p> <p>In contrast, the UK Russia SI targets a number of expressly targeted Russian entities as well as a person, other than an individual, (i) incorporated or constituted under the law of "<i>a non-UK country</i>" and owned by an expressly targeted Russian entity, or (ii) a person, other than an individual, acting on behalf of, or at the direction of, an expressly targeted Russian entity or a person caught by limb (i).</p> <p>The effect of this change is that, from the perspective of a "<i>United Kingdom person</i>" (as defined in section 21 of the Sanctions and Anti-Money Laundering Act 2018 (<b>SAMLA</b>)), certain persons will be targeted for the first time.</p> <p>To the extent that UK financial institutions engage in prohibited financial and investment activities with persons that are targeted by the UK Russia SI, but not the EU Russia Sectoral Sanctions SI, this will have a high impact.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 16(2)(b), 16(4)(b), 16(7), 16(8), 17(5), 59(3)(b) and Schedule 1	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054, Regulations 3(2)(b), 3A(2)(d) and 3B(1)	(c)	<p><b>Medium Impact</b></p> <p>The EU Russia Sectoral Sanctions SI defines ownership by reference to owning "<i>more than 50% of the proprietary rights</i>" (emphasis added) in a legal person, entity or body. In contrast, the UK Russia SI defines ownership by reference to holding directly or indirectly "<i>more than 50% of the shares ... [or] voting rights</i>" (emphasis added) in a person.</p> <p>The meaning of "<i>proprietary rights</i>" is unclear and is capable of being interpreted expansively. So, it is arguable that the UK Russia SI's reference to "<i>shares</i>" and "<i>voting rights</i>" limits the scope of persons captured to incorporated persons in respect of the ownership limb.</p> <p>Schedule 1 to the UK Russia SI sets out the detailed rules of interpretation for determining ownership, replacing and expanding on non-legally binding EU guidance.</p> <p>These changes may have an impact on financial institutions to the extent that they impose an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>

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Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 59(1)(a)	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054, Regulation 3B(2)(a)	(c)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Sectoral Sanctions SI creates an exception in relation to a loan or credit arrangement with a "<i>specific and documented objective to provide financing for non-prohibited imports or exports of goods and non-financial services, between the European Union and any third State, including the expenditure for goods and services from another third State that is necessary for executing the export or import contracts</i>". It is unclear what is meant by "<i>non-prohibited imports or exports of goods and non-financial services</i>" and, arguably, it only referred to imports or exports of goods and non-financial services prohibited by Council Regulation (EU) No 833/2014 (the <b>EU Russia Regulation</b>).</p> <p>The UK Russia SI reframes this exception in respect of "<i>making funds available for non-restricted trade</i>". "<i>Non-restricted trade</i>" is then defined by reference to trade that is not prohibited under Part 5 of the UK Russia SI. The UK Russia SI therefore clarifies the scope of the exception, including, arguably, extending it to include trade with Crimea, as Crimea is included in Part 5, as well as trade with Russia.</p> <p>This clarification is unlikely to have any impact on financial institutions.</p> <p>Furthermore, to the extent that a UK financial institution relies on this exception in relation to loans for imports and exports to/from the EU (rather than the UK), this exception will no longer be available going forward. Therefore, such financings may be difficult to refinance. In such cases, the impact of this change will be high.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 59(1)(b)	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054, Regulation	(c)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Sectoral Sanctions SI creates an exception in relation to a loan or credit arrangement with a "<i>specific and documented objective to provide emergency funding to meet solvency and liquidity criteria for legal persons established in the European Union, more than 50% of the proprietary rights in which are owned by any entity referred to in Annex III to the Council Regulation</i>" (emphasis added).</p>

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		3B(2)(b)		<p>The UK Russia SI limits this exception to "<i>relevant subsidiaries</i>" which are "<i>incorporated or constituted under the law of any part of the United Kingdom</i>".</p> <p>To the extent that UK financial institutions engage in prohibited financial and investment activities with legal persons established in the EU relying on this exception, this will have a high impact upon a refinancing of those arrangements.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 59	Ukraine (European Union Financial Sanctions) (No 3) Regulations 2014/2054, Regulation 3C(3)	(a)	<p><b>Low Impact</b></p> <p>Regulation 3C(3) of the EU Russia Sectoral Sanctions SI expressly provides that "<i>the terms and conditions of the drawdowns and disbursements referred to in paragraph (2) include provisions concerning the length of the repayment period for each drawdown or disbursement, the interest rate applied or the interest rate calculation method, and the maximum amount</i>".</p> <p>This provision has not been replicated in Regulation 59 of the UK Russia SI. However, this omission is unlikely to have any impact on financial institutions, as Regulation 59(2)(a) of the UK Russia SI refers to "<i>all the terms and conditions of such drawdowns and disbursements</i>" which would, in any event, include those provisions detailed in Regulation 3C(3) of the EU Russia Sectoral Sanctions SI.</p>
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 18	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 7	(b)	<p><b>Potentially High Impact</b></p> <p>Article 7 of the Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357 (the <b>EU Russia Export Control Order</b>) creates a criminal offence where a person is "<i>knowingly concerned in an activity prohibited</i> [by Article 2a of Council Regulation (EU) No 692/2014] ... <i>with intent to evade a prohibition</i>".</p> <p>In contrast, Regulation 18 of the UK Russia SI provides that a criminal offence is committed where a person carries out a prohibited activity if that person knows, or has reasonable cause to suspect, that they are carrying on such an activity. The <i>mens rea</i> threshold is therefore lower as compared to Article 7 of the EU Russia Export Control Order.</p>

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				These changes may increase the due diligence burden on financial institutions.
Finance – other financial and investment restrictions	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 18(2)(b), (c), (d) and (e) and (5)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Articles 7(b), (c), (d) and (e)	(c)	<p><b>Potentially High Impact</b></p> <p>Regulations 18(2)(b), (c), (d) and (e) of the UK Russia SI prohibits activities related to "<i>a relevant entity</i>". A "<i>relevant entity</i>" is defined in Regulation 18(5) as a "<i>person ... which has a place of business located in Crimea</i>". The effect of this is arguably to broaden the prohibitions contained in Articles 7(b), (c), (d) and (e) of the EU Russia Export Control Order which only prohibit such activities in relation to "<i>an entity in Crimea or Sevastopol</i>" (emphasis added).</p> <p>These changes may increase the due diligence burden on financial institutions and affect their ability to provide certain services to entities which have a place of business located in Crimea, but are, for example, not incorporated in Crimea.</p>
Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 28	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5(1)(b)	(b) and (c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI creates prohibitions on the provision of "<i>financial services</i>" and "<i>funds</i>" in relation to "<i>military goods</i>" and "<i>military technology</i>". The prohibitions related to such goods and technology are broken down into providing financial services and funds in relation to the following categories of activity: (i) the export of military goods; (ii) the direct or indirect supply or delivery of military good; (iii) directly or indirectly making military goods or military technology available to a person; (iv) the transfer of military technology; or (v) the direct or indirect provision of technical assistance relating to military goods or military technology.</p> <p>The prohibitions in Regulations 28(1), (2) and (3) relate to the provision to "<i>a person connected with Russia</i>", "<i>for use in Russia</i>" or "<i>to a place in Russia</i>".</p> <p>"<i>A person connected with Russia</i>" is defined in Regulation 21(3) as follows:</p> <p>(a) "<i>an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,</i></p>

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				<p>(b) <i>an individual who is, or an association or combination of individuals who are, located in Russia,</i></p> <p>(c) <i>a person, other than an individual, which is incorporated or constituted under the law of Russia, or</i></p> <p>(d) <i>a person, other than an individual, which is domiciled in Russia."</i></p> <p>This is in contrast to the approach taken in the EU Russia Regulation which underpins the relevant criminal offence in Article 5(1)(b) of the EU Russia Export Control Order. Article 4(1)(b) of the EU Russia Regulation prohibits the provision "<i>directly or indirectly, [of] financing or financial assistance related to the goods and technology listed in the Common Military List, including in particular grants, loans and export credit insurance or guarantee, as well as insurance and reinsurance for any sale, supply, transfer or export of such items, or for any provision of related technical assistance, to any natural or legal person, entity or body in Russia or for use in Russia</i>" (emphasis added).</p> <p>A number of differences are apparent:</p> <p>"<i>Military goods</i>" and "<i>military technology</i>" in the UK Russia SI are, <i>inter alia</i>, defined by reference to the list in Schedule 2 to the Export Control Order 2008. In contrast, Article 5 of the EU Russia Export Control Order creates offences in relation to the provision of financing and financial assistance in connection to the goods and technologies set out in the EU Common Military List. Financial institutions will need to update their compliance processes to cross-check against, <i>inter alia</i>, Schedule 2 to the Export Control Order 2008 which is broader than the EU Common Military List.</p> <p>The EU Russia Regulation provides that the prohibitions in Article 4(1)(b) shall not apply to the authorised provision, directly or indirectly, of technical assistance, financing or financial assistance related to certain listed operations, including the sale of certain concentrations and forms of hydrazine (a chemical used in rocket fuel), provided the</p>

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				<p>substances are destined for use by certain European launch providers, space programmes, or satellites, or for flights of the ExoMars 2020 mission. These exemptions have not been included in the new UK Russia SI. Rather, to the extent that a financial institution relied on such an exemption, it would need to apply for a trade licence to authorise its activities. Guidance published by the UK Government suggests that the supply of certain concentrations of hydrazine for use by UK launch providers, satellites or ExoMars are reasons for which a licence may be granted (as they are specific activities that the Department for International Trade considers are likely to be consistent with the aims of the sanctions). The guidance does not specifically refer to financing or funding the same. The issuance of a licence is, therefore, not guaranteed under the UK Russia SI.</p> <p>It is arguable that the prohibition in Article 5(1)(b) of the EU Russia Regulation is narrower than those contained in Regulations 28(1), (2) and (3) of the UK Russia SI. This is because, for example, it is arguable that "<i>indirectly</i>" making funds available "in pursuance of or in connection with" "<i>technical assistance relating to military goods</i>", which is prohibited by Regulation 28(1)(e) read with Regulation 28(2) of the UK Russia SI, would not be considered to be providing "<i>financing</i>" "<i>related to</i>" goods and technology listed in the Common Military List under Article 5(1)(b) of the EU Russia Regulation, unless as extremely expansive reading of that article is taken.</p> <p>The definition of "<i>a person connected with Russia</i>" is broader than Article 4(1)(b) of the EU Russia Regulation.</p> <p>"<i>Financial services</i>" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in Regulation 28(1) is, in this respect, materially broader than the offence in Article 5(1)(b) of the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "<i>military goods</i>" and "<i>military technology</i>", as well as increasing the due diligence burden.</p>

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Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 28(1), (3), (4) and (5)	The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5(1)(b)	(b)	<p><b>Low Impact</b></p> <p>The UK Russia SI sets out the activities that it prohibits more explicitly than the EU Russia Export Control Order. Namely, it prohibits the "<i>provision</i>" (Regulations 28(1) and (3)) and "<i>procurement</i>" (Regulations 28(4) and (5)) of financial services, as well as the "<i>provision</i>" (Regulation 28(3)) and the "<i>making available of</i>" (Regulation 28(2)) funds. Article 5(1) of the EU Russia Export Control Order frames its offence in terms of the <i>provision</i> of financing or financial assistance only. Arguably, the effect of this change is to broaden the scope of the prohibitions.</p> <p>This is likely to have a low impact on UK financial institutions since Article 5(1) of the EU Russia Export Control Order is capable of being read expansively in any event.</p>
Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 28(7)	The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5(1)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity prohibited</i> [by Article 4(1)(b) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish an "<i>intent to evade</i>". There is however a defence for a person where they did not know and had no reasonable cause to suspect that the person was connected with Russia or that the financial services or funds (as the case may be) were provided or procured in pursuance of or in connection with an arrangement mentioned in Regulation 28(3). If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions</p>

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				in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.
Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 29	The Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5(1)(a)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI prohibits the provision, directly or indirectly, of:</p> <p>"brokering services in relation to an arrangement ... whose object or effect is –</p> <p>...</p> <p>(a) <i>the direct or indirect provision, in a non-UK country, of financial services –</i></p> <p>(i) <i>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</i></p> <p>(ii) <i>where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 28(3),</i></p> <p>(b) <i>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</i></p> <p>(c) <i>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)...</i></p> <p>"<i>Brokering services</i>" is then defined in the UK Russia SI as follows:</p>

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				<p><i>"any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—</i></p> <ul style="list-style-type: none"> <li><i>(a) the selection or introduction of persons as parties or potential parties to the arrangement,</i></li> <li><i>(b) the negotiation of the arrangement,</i></li> <li><i>(c) the facilitation of anything that enables the arrangement to be entered into, and</i></li> <li><i>(d) the provision of any assistance that in any way promotes or facilitates the arrangement[.]"</i></li> </ul> <p>In contrast, Article 5(1)(a) of the EU Russia Export Control Order creates an offence in relation to the provision of <i>"brokering services related to the goods and technology listed in the Common Military List to any legal person, entity or body in Russia or for use in Russia"</i>. Article 1(d) of the EU Russia Regulation defines <i>"brokering services"</i> as <i>"<b>the negotiation or arrangement</b> of transactions for the purchase, sale or supply of goods and technology or <b>financial and technical services</b>, including from a third country to any other third country, or... the selling or buying... <b>of financial... services</b>"</i> (emphasis added).</p> <p>The definition of <i>"brokering"</i> in the UK Russia SI is therefore broader than that contained in Article 1(e) of the EU Russia Regulation. This may affect financial institutions to the extent that they engage in any brokering activities related to the substantive prohibitions.</p> <p>Likewise, the prohibitions in Regulation 29(1) of the UK Russia SI are broader than those in Article 5(1)(a) of the EU Russia Export Control Order. This is because Article 5(1)(a) of the EU Russian Export Control Order does not expressly prohibit the provision of <i>"brokering services"</i> in relation to <i>"financial services"</i> (Regulation 29(1)(f)), <i>"making funds available"</i> (Regulation 29(1)(g)) and the <i>"provision of funds"</i> (Regulation 29(1)(h)).</p> <p>Regulations 29(1)(f) and (g) refer to <i>"a person connected to Russia"</i>. This is broader than</p>

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				Article 5(1)(a) of the EU Russia Export Control Order.
Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 29(3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5(1)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity</i> [prohibited by Article 4(1)(a) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and had no reasonable cause to suspect that that the brokering service services were provided in relation to an arrangement mentioned in that paragraph</i>". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Military goods, military technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 30	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 5	(b)	<p><b>Potentially High Impact</b></p> <p>Regulations 30(1)(c) and (d) of the UK Russia SI prohibit the direct or indirect provision of financial services or funds, or brokering services in relation to an arrangement whose object or effect is to provide, in a non-UK country, such financial services or funds, where such provision enables or facilitates the conduct of "<i>military activities</i>" carried on or proposed to be carried on by the Russian military or any other military end-user who is a person connected with Russia. "<i>Military activities</i>" is not defined. Moreover, this Regulation makes no reference to a military goods list such as the Common Military List or the list in Schedule 2 to the Export Control Order 2008.</p>

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				<p>Regulation 30(2) provides exceptions and licences, while Regulation 30(3) provides that a person shall have a defence where that person did not know and had no reasonable cause to suspect that the provision as mentioned in paragraph (1) would enable or facilitate the conduct of military activities carried on or proposed to be carried on by the Russian military or any other military end-user who is a person connected with Russia.</p> <p>While Article 5 of the EU Russia Export Control Order sets out prohibitions in relation to the provision of financing or financial assistance and brokering services in relation to goods and technologies on the Common Military List, it does not establish an offence specifically in relation to such an activity to the extent that it "<i>enables or facilitates the conduct of military activities</i>".</p> <p>The UK Russia SI's prohibition on financial services, funding or brokering that may enable or facilitate an undefined set of military activities is very broad. By way of example, this may conceivably include financial services rendered for a software or hardware company, whose technology can be used for surveillance by the Russian military. Despite the knowledge defence, this is nevertheless likely to significantly impact due diligence carried out by the financial institutions, as due diligence questions will need to reach beyond cross-checking against a military goods and technologies list, but instead query whether the arrangement, goods or technologies in question are capable of being used by the Russian military or by a military end-user connected with Russia.</p>
Trade – Dual-use goods, dual-use technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 37	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Articles 3(ac) and (c)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI creates prohibitions on the provision of "<i>financial services</i>" and "<i>funds</i>" in relation to "<i>dual-use goods</i>" and "<i>dual-use technology</i>". The prohibitions related to such goods and technology are broken down into providing financial services and funds in relation the following categories of activity: (i) the export of dual-use goods for military use; (ii) the direct or indirect supply or delivery of dual-use goods for military use; (iii) directly or indirectly making dual-use goods for military use or dual-use technology for military use available to a person; (iv) the transfer of dual-use technology for military use; or (v) the direct or indirect provision of technical assistance relating to dual-use goods for military use or</p>

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				<p>dual-use technology for military use.</p> <p>The prohibitions in Regulations 37(1), (2) and (4) relate to the provision to "<i>a person connected with Russia</i>", "<i>for use in Russia</i>" or "<i>to a place in Russia</i>".</p> <p>Regulation 37(3) of the UK Russia SI also creates prohibitions in relation to the above activities for persons mentioned in Schedule 4 (i.e. without the requirement for it to be for military use).</p> <p>"<i>A person connected with Russia</i>" is defined in Regulation 21(3) as follows:</p> <ul style="list-style-type: none"> <li>(a) <i>"an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,</i></li> <li>(b) <i>an individual who is, or an association or combination of individuals who are, located in Russia,</i></li> <li>(c) <i>a person, other than an individual, which is incorporated or constituted under the law of Russia, or</i></li> <li>(d) <i>a person, other than an individual, which is domiciled in Russia."</i></li> </ul> <p>This is in contrast to the approach taken in the EU Russia Regulation which underpins the relevant criminal offence in Article 3(ac) and (c) of the EU Russia Export Control Order. Article 4(1)(d) of the EU Russia Regulation prohibits the provision "<i>directly or indirectly, [of] financing or financial assistance <b>related to</b> the dual-use-goods and technology, including in particular grants, loans and export credit insurance for any sale, supply, transfer or export of such items, or for any provision of related technical assistance, to any natural or legal person, entity or body in Russia or for use in Russia</i>" (emphasis added).</p> <p>Similarly, Article 2a(2)(b) of the EU Russia Regulation prohibits the provision of "<i>financing or financial assistance related to goods and technology referred to in [Annex I to the EU Russia Regulation], including in particular grants, loans and export credit insurance, for any sale,</i></p>

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				<p><i>supply transfer or export of these goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any person, entity or body in Russia, as listed in Annex IV [to the EU Russia Regulation]"</i>.</p> <p>A number of differences are apparent:</p> <p>It is arguable that the prohibitions in Article 4(1)(d) and Article 2a(2)(b) of the EU Russia Regulation are narrower than those contained in Regulations 37(1), (2), (3) and (4) of the UK Russia SI. This is because, for example, it is arguable that "<i>indirectly</i>" providing funding in relation to "<i>technical assistance relating to dual-use goods</i>", which is prohibited by Regulation 37(1)(e) read with Regulation 37(2) and Regulation 37(3)(e) of the UK Russia SI, would not be considered to be providing "<i>financing</i>" "<i>related to</i>" dual-use goods and technology under Article 4(1)(d) and Article 2a(2)(b) of the EU Russia Regulation, unless as extremely expansive reading of that article is taken.</p> <p>The definition of "<i>a person connected with Russia</i>" is broader than Article 4(1)(d) of the EU Russia Regulation. The addition of "<i>to a place in Russia</i>" in the UK Russia SI may further have the effect of making the new prohibition more onerous.</p> <p>"<i>Financial services</i>" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in Regulation 37(1) is, in this respect, materially broader than the offence in Article 5(1)(d) of the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "<i>dual-use goods</i>", as well as increasing the due diligence burden.</p>
Trade – Dual-use goods, dual-use technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 37(6)	Export Control (Russia, Crimea and Sevastopol Sanctions)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity prohibited</i> [by Article 2a(2)(b) and 4(1)(d) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Order 2014/2357, Article 3		<p>no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they did not know and had no reasonable cause to suspect that the person was connected with Russia, the person was mentioned in Schedule 4 or the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in Regulation 37(4). If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Dual-use goods, dual-use technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 38	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 3(b)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI prohibits the provision, directly or indirectly, of:</p> <p><i>"brokering services in relation to an arrangement ... whose object or effect is –</i></p> <p>...</p> <p>(a) <i>the direct or indirect provision, in a non-UK country, of financial services –</i></p> <p>(i) <i>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 37(1), or</i></p>

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				<p>(ii) where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 37(3),</p> <p>(b) 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 37(1), or</p> <p>(c) 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 37(3)..."</p> <p>"Brokering services" is then defined in the UK Russia SI as follows:</p> <p>"any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—</p> <p>(a) the selection or introduction of persons as parties or potential parties to the arrangement,</p> <p>(b) the negotiation of the arrangement,</p> <p>(c) the facilitation of anything that enables the arrangement to be entered into, and</p> <p>(d) the provision of any assistance that in any way promotes or facilitates the arrangement[.]"</p> <p>In contrast, Article 3(b) of the EU Russia Export Control Order creates an offence in relation to the provision of "brokering services related to dual-use goods and technology to any legal</p>

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				<p><i>person, entity or body in Russia or for use in Russia, if the items are or may be intended, in their entirety or in part, for military use or for a military end-user</i>". Article 1(d) of the EU Russia Regulation defines "<i>brokering services</i>" as "<b><i>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 financial... services</i></b>" (emphasis added).</p> <p>The definition of "<i>brokering</i>" in the UK Russia SI is therefore broader than that contained in Article 1(d) of the EU Russia Regulation. This may affect financial institutions to the extent that they engage in any brokering activities related to the substantive prohibitions.</p> <p>Likewise, the prohibitions in Regulations 38(1)(j) and (3) of the UK Russia SI are broader than those in Article 3(b) of the EU Russia Export Control Order. This is because Article 3(b) of the EU Russian Export Control Order does not expressly prohibit the provision of "<i>brokering services</i>" in relation to "<i>financial services</i>" (Regulation 38(1)(j)), "<i>making funds available</i>" (Regulation 38(1)(k)) and the "<i>provision of funds</i>" (Regulation 38(1)(l)).</p> <p>Regulations 38(1)(j) and (k) refer to "<i>a person connected to Russia</i>". This is broader than Article 3(b) of the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "<i>dual-use goods</i>", as well as increasing the due diligence burden.</p>
Trade – Dual-use goods, dual-use technology and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 38(3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 3	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity</i> [prohibited by Article 3(b) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and</i></p>

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				<p><i>had no reasonable cause to suspect that that the brokering service services were provided in relation to an arrangement mentioned in that paragraph". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</i></p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Energy-related goods and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 44(1)-(3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 4(2)(a)(iii)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI creates prohibitions on the provision of "<i>financial services</i>" and "<i>funds</i>" in relation to "<i>energy-related goods</i>". The prohibitions related to such goods and technology are broken down into providing financial services and funds in relation the following categories of activity: (i) the export of energy-related goods; (ii) the direct or indirect supply or delivery of energy-related goods; (iii) directly or indirectly making energy-related goods available to a person; or (iv) the direct or indirect provision of technical assistance relating to energy-related goods.</p> <p>The prohibitions in Regulations 44(1), (2) and (3) relate to the provision to "<i>a person connected with Russia</i>", "<i>for use in Russia</i>" or "<i>to Russia</i>".</p> <p>"<i>A person connected with Russia</i>" is defined in Regulation 21(3) as follows:</p> <p>(a) <i>"an individual who is, or an association or combination of individuals who are, ordinarily resident in Russia,</i></p> <p>(b) <i>an individual who is, or an association or combination of individuals who are, located in Russia,</i></p>

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				<p>(c) a person, other than an individual, which is incorporated or constituted under the law of Russia, or</p> <p>(d) a person, other than an individual, which is domiciled in Russia."</p> <p>This is in contrast to the approach taken in the EU Russia Regulation which underpins the relevant criminal offence in Article 4(2)(a)(iii) of the EU Russia Export Control Order. Article 4(3)(b) of the EU Russia Regulation prohibits the provision of "<i>financing or financial assistance related to items referred to in Annex II, including in particular grants, loans and export credit insurance or guarantee, as well as insurance and reinsurance for any sale, supply, transfer or export of those items, or for any provision of related technical assistance, directly or indirectly to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf, or if such assistance concerns items for use in Russia, including its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State</i>" (emphasis added).</p> <p>A number of differences are apparent:</p> <p>It is arguable that the prohibition in Article 4(3)(b) of the EU Russia Regulation is narrower than those contained in Regulations 44(1), (2) and (3) of the UK Russia SI. This is because, for example, it is arguable that "<i>indirectly</i>" providing funding in relation to "<i>technical assistance relating to energy-related goods</i>", which is prohibited by Regulation 44(1)(d) read with Regulation 44(2) of the UK Russia SI, would not be considered to be providing "<i>financing</i>" "<b>related to</b>" items referred to in Annex II under Article 4(3)(b) of the EU Russia Regulation, unless as extremely expansive reading of that article is taken.</p> <p>The definition of "<i>a person connected with Russia</i>" is broader than Article 4(3)(b) of the EU Russia Regulation.</p>

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				<p>"Financial services" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in Regulation 44(1) is, in this respect, materially broader than the offence in Article 4(3)(b) of the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "energy-related goods", as well as increasing the due diligence burden.</p>
Trade – Energy-related goods and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 44(5)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 4(2)(c)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in</i> [an activity prohibited by Article 4(3)(b) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and had no reasonable cause to suspect that the person was connected with Russia or that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in Regulation 44(3)</i>". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Energy-related goods and related	Russia (Sanctions) (EU Exit) Regulations	Export Control (Russia, Crimea and	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI prohibits the provision, directly or indirectly, of:</p>

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activities	2019/855, Regulations 45(1)(d)-(f)	Sevastopol Sanctions) Order 2014/2357, Article 4(2)(a)(ii)		<p>"<i>brokering services in relation to an arrangement ... whose object or effect is –</i></p> <p>...</p> <p>(a) <i>the direct or indirect provision, in a non-UK country, of financial services –</i></p> <p>(i) <i>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 44(1), or</i></p> <p>(ii) <i>where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 44(3),</i></p> <p>(b) <i>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 44(1), or</i></p> <p>(c) <i>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 44(3)..."</i></p> <p>"<i>Brokering services</i>" is then defined in the UK Russia SI as follows:</p> <p>"<i>any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)–</i></p> <p>(a) <i>the selection or introduction of persons as parties or potential parties to the arrangement,</i></p>

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				<p>(b) <i>the negotiation of the arrangement,</i></p> <p>(c) <i>the facilitation of anything that enables the arrangement to be entered into, and</i></p> <p>(d) <i>the provision of any assistance that in any way promotes or facilitates the arrangement[.]</i>"</p> <p>In contrast, Article 4(2)(a)(ii) of the EU Russia Export Control Order creates an offence in relation to the provision of "<i>brokering services related to related to items listed in Annex II to any natural or legal person, entity or body in Russia, including its Exclusive Economic Zone and Continental Shelf or, if such assistance concerns items for use in Russia, including its Exclusive Economic Zone and Continental Shelf, to any person, entity or body in any other State</i>". The Article 1(d) of the EU Russia Regulation defines "<i>brokering services</i>" as "<b><i>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 financial... services</i></b>" (emphasis added).</p> <p>The definition of "<i>brokering</i>" in the UK Russia SI is therefore broader than that contained in Article 1(d) of the EU Russia Regulation. This may affect financial institutions to the extent that they engage in any brokering activities related to the substantive prohibitions.</p> <p>Likewise, the prohibitions in Regulations 45(1)(d) and (3) of the UK Russia SI are broader than those in Article 4(2)(a)(ii) of the EU Russia Export Control Order. This is because Article 4(2)(a)(ii) of the EU Russian Export Control Order does not expressly prohibit the provision of "<i>brokering services</i>" in relation to "<i>financial services</i>" (Regulation 45(1)(d)), "<i>making funds available</i>" (Regulation 45(1)(e)) and the "<i>provision of funds</i>" (Regulation 45(1)(f)).</p> <p>Regulations 45(1)(d) and (e) refer to "<i>a person connected to Russia</i>". This is broader than Article 4(2)(a)(ii) of the EU Russia Export Control Order.</p>
	Russia (Sanctions) (EU)	Export Control (Russia, Crimea)	(b)	<b>Potentially High Impact</b>

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	Exit) Regulations 2019/855, Regulation 45	and Sevastopol Sanctions) Order 2014/2357, Article 4(2)(a)(ii)		<p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity</i> [prohibited by Article 4(3)(a) of the EU Russia Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in the EU Russia Regulation (EU Russia Regulation, Article 10).</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and had no reasonable cause to suspect that that the brokering service services were provided in relation to an arrangement mentioned in that paragraph</i>". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Energy-related goods and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 52(1)-(3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 8(c)	(a) and (b)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI creates prohibitions on the provision of "<i>financial services</i>" and "<i>funds</i>" in relation to "<i>infrastructure-related goods</i>". The prohibitions related to such goods are broken down into providing financial services and funds in relation to certain categories of activity, for example, "<i>the export of infrastructure-related goods</i>".</p> <p>The prohibitions in Regulations 52(1), (2) and 3(d) and (e) relate to the provision to "<i>a person connected with Crimea</i>". "<i>A person connected with Crimea</i>" is defined in Regulation 21(3) as follows:</p> <p>(a) "<i>an individual who is, or an association or combination of individuals who are, ordinarily resident in Crimea,</i></p>

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				<p>(b) <i>an individual who is, or an association or combination of individuals who are, located in Crimea, or</i></p> <p>(c) <i>a person, other than an individual, which has its registered office, central administration or principal place of business located in Crimea."</i></p> <p>This is in contrast to the approach taken in Council Regulation (EU) No 692/2014 (the <b>EU Crimea Regulation</b>) which underpins the relevant criminal offence in Article 8(c) of the EU Russia Export Control Order. Article 2b(2)(b) of the EU Crimea Regulation prohibits the provision "<i>directly or indirectly, [of] financing or financial assistance <b>related to</b> the goods and technology as listed in Annex II to any natural or legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol</i>" (emphasis added).</p> <p>A number of differences are apparent:</p> <p>"<i>Infrastructure-related goods</i>" in the UK Russia SI are substantially equivalent to those set out in Annex II to the EU Crimea Regulation, but not identical. CN Code 8469 00 and confidential products under Chapter 85 and goods under Chapter 85 transported by post or by parcel post (extra)/reconstituted code for statistical distribution are omitted from Part 3 of Schedule 3 to the UK Russia SI, but included in Annex II to the EU Crimea Regulation. In this respect, the EU Crimea Regulation is broader.</p> <p>It is arguable that the prohibition in Article 2b(2)(b) of the EU Crimea Regulation is narrower than those contained in Regulations 52(1), (2) and (3) of the UK Russia SI. This is because, for example, it is arguable that "<i>indirectly</i>" providing funding in relation to "<i>technical assistance relating to infrastructure-related goods</i>", which is prohibited by Regulation 52(1)(d) read with Regulation 52(2) of the UK Russia SI, would not be considered to be providing "<i>financing</i>" "<b>related to</b>" Annex II goods under Article 2b(2)(b) of the EU Crimea Regulation, unless as extremely expansive reading of that article is taken.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The definition of "<i>a person connected with Crimea</i>" is broader than Article 2b(2)(b) of the EU Crimea Regulation.</p> <p>"<i>Financial services</i>" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in Regulation 52(1) is, in this respect, materially broader than the offence in Article 8(c) of the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide funds and financial services connected to "<i>infrastructure-related goods</i>", as well as increasing the due diligence burden.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 52(3)(a)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 6	(b) and (c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI prohibits the provision of "<i>financial services or funds ... in connection with an arrangement whose object or effect is – (a) the import of goods which originate in Crimea</i>". In contrast, Article 6 of the EU Russia Export Control Order creates an offence in relation to the provision of "<i>financing or financial assistance as well as insurance and reinsurance and reinsurance</i>" related "<i>to the import into the European Union goods originating in Crimea or Sevastopol</i>".</p> <p>"<i>Financial services</i>" is broadly defined in section 61 of SAMLA, so the prohibition and related offence in the UK Russia SI is arguably materially broader than the offence in the EU Russia Export Control Order.</p> <p>This change may affect the ability of financial institutions to provide certain financial services connected to the import of goods originating in Crimea.</p>
Trade – Energy-related goods and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation	Export Control (Russia, Crimea and Sevastopol Sanctions)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity prohibited</i> [by Article 2(2)(b) of the EU Crimea Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause</p>

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	52(5)(a)	Order 2014/2357, Article 8(c)		<p>to suspect that their actions would infringe the measures set out in Article 5 of the EU Crimea Regulation.</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and had no reasonable cause to suspect</i>" that "<i>the person was connected to Crimea</i>". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulations 53(1)(e)-(g) and (3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 8(b)	(c)	<p><b>Potentially High Impact</b></p> <p>The UK Russia SI prohibits the provision, directly or indirectly, of:</p> <p><i>"brokering services in relation to an arrangement ... whose object or effect is –</i></p> <p>...</p> <p>(a) <i>the direct or indirect provision, in a non-UK country, of financial services –</i></p> <p>(i) <i>to a person connected with Crimea, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(1), or</i></p> <p>(ii) <i>where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(3) in relation to infrastructure-related goods,</i></p>

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				<p>(b) <i>directly or indirectly making funds available, in a non-UK country, to a person connected with Crimea, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned in regulation 52(1), or</i></p> <p>(c) <i>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 52(3) in relation to infrastructure-related goods..."</i></p> <p>"<i>Brokering services</i>" is then defined in the UK Russia SI as follows:</p> <p>"<i>any service to secure, or otherwise in relation to, an arrangement, including (but not limited to)—</i></p> <p>(a) <i>the selection or introduction of persons as parties or potential parties to the arrangement,</i></p> <p>(b) <i>the negotiation of the arrangement,</i></p> <p>(c) <i>the facilitation of anything that enables the arrangement to be entered into, and</i></p> <p>(d) <i>the provision of any assistance that in any way promotes or facilitates the arrangement[.]"</i></p> <p>In contrast, Article 8(b) of the EU Russia Export Control Order creates an offence in relation to the provision of "<i>brokering services related to the goods and technology as listed in Annex II to any legal person, entity or body in Crimea or Sevastopol or for use in Crimea or Sevastopol</i>". Article 1(f) of the EU Crimea Regulation defines "<i>brokering services</i>" as "<b>the negotiation or arrangement</b> of transactions for the purchase, sale or supply of goods and technology or of <b>financial</b> and technical <b>services</b>, including from a third country to any other</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>third country or... the selling or buying... of financial... services</i>" (emphasis added).</p> <p>The definition of "<i>brokering</i>" in the UK Russia SI is therefore broader than that contained in Article 1(f) of the EU Crimea Regulation. This may affect financial institutions to the extent that they engage in any brokering activities related to the substantive prohibitions.</p> <p>Likewise, the prohibitions in Regulation 53(1) of the UK Russia SI are broader than those in Article 8(b) of the EU Russia Export Control Order. This is because Article 8(b) of the EU Russian Export Control Order does not expressly prohibit the provision of "<i>brokering services</i>" in relation to "<i>financial services</i>" (Regulation 53(1)(e)), "<i>making funds available</i>" (Regulation 53(1)(f)) and the "<i>provision of funds</i>" (Regulation 53(1)(g)).</p> <p>Regulations 53(1)(e) and (f) refer to "<i>a person connected to Crimea</i>". This is broader than Article 8(b) of the EU Russia Export Control Order.</p>
Trade – Energy-related goods and related activities	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 53(3)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 8(b)	(b)	<p><b>Potentially High Impact</b></p> <p>The EU Russia Export Control Order creates a criminal offence where a person is "<i>knowingly concerned in an activity prohibited</i> [by Article 2(2)(a) of the EU Crimea Regulation] ... <i>with intent to evade a prohibition</i>", unless that person did not know and had no reasonable cause to suspect that their actions would infringe the measures set out in Article 5 of the EU Crimea Regulation.</p> <p>In contrast, the UK Russia SI does not contain a requirement on the prosecution to establish "<i>intent to evade</i>". There is however a defence for a person where they "<i>did not know and had no reasonable cause to suspect that that the brokering service services were provided in relation to an arrangement mentioned in that paragraph</i>". If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Regulation 56).</p> <p>The <i>mens rea</i> threshold is therefore lower as compared to the EU Russia Export Control Order. As such, this may necessitate a greater degree of diligence from financial institutions</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				in case they must make out the knowledge defence when facing an enforcement action, and at the same time lightening the prosecution's burden in bringing the same.
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 64	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 9	(b)	<p><b>Low Impact</b></p> <p>The UK Russia SI limits the ability of the Treasury to issue a licence authorising acts in relation to prohibitions in Regulations 11 to 15 (assets-freeze etc.) and 18 (investments in relation to Crimea) to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 5 to the UK Russia SI. Similar restrictions did not apply expressly under the EU Russia Financial Services SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 65	– [Does there need to be a reference here? I had a look but was unsure]	(b)	<p><b>Medium Impact</b></p> <p>Under the EU Russia Regulation (which underpins the EU Russia Export Control Order), certain trade prohibitions, namely the prohibitions on providing brokering, financing or financial assistance related to dual-use goods and technology to a person listed in Annex IV (Article 2a(2)), dual-use goods and technology for military use or a military end-user (Article 4(1)) and goods and services listed in the Common Military List (Article 4(1)(b)), were without prejudice to the execution of contracts concluded before 12 September 2014 (in the case of dual-use goods) or 1 August 2014 (in the case of Common Military List goods and dual-use goods for military use etc.), or ancillary contracts necessary for the execution of such contracts.</p> <p>The UK Russia SI does not include equivalent exceptions in relation to contracts concluded before 12 September 2014 or 1 August 2014 (as applicable). Rather, the UK Russia SI provides that the prohibitions in Chapters 2 to 6 of Part 5 (Trade) do not apply to anything done under the authority of a licence issued by the Secretary of State under Regulation 65. Guidance published by the UK Government sets out certain activities that the Export Control Joint Unit within the Department of International Trade, which is responsible for administering the trade licensing regime, considers are likely to be consistent with the aims of the sanctions. Such activities include that a licence may be granted:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>for the provision of brokering services, financial services or funds which enable or facilitate military activities, if the financial services or funds, or brokering services relate to the execution of an obligation arising from a contract concluded before 1 August 2014 or ancillary contracts necessary for the execution of such a contract;</p> <p>for the provision of brokering services, financial services or funds related to dual-use goods or technology for a military end-use or military end-user if the Secretary of State is satisfied that the brokering services, financial services or funds are necessary for the execution of contracts concluded before 1 August 2014 or ancillary contracts necessary for the execution of such contracts; or</p> <p>for the provision of brokering services, financial services or funds related to a person listed in Schedule 4 [to the UK Russia SI] if the technical assistance, brokering services, financial services or funds relate to the execution of contracts concluded before 12 September 2014 or ancillary contracts necessary for the execution of such contracts.</p> <p>As such, under the UK Russia SI, to the extent that a financial institution has relied or wishes to rely on the 2014 cut-off exemption to execute contracts that are otherwise prohibited by the sanctions regime, they will need to apply for a trade licence. Although guidance suggests that any such licence would be approved, this is not guaranteed under the new UK Russia SI.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 66(5)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Russia Financial Services SI, the Treasury may vary or revoke a licence at any time. The new UK Russia SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade – Exports	Russia	Ukraine	(c)	<b>Low Impact</b>

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and imports, and related activities, in relation to Crimea	(Sanctions) (EU Exit) Regulations 2019/855, Regulation 67(1)	(European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 9(5)		<p>Under the EU Russia Financial Services SI, a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a Treasury licence. The UK Russia SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 68(1)	Export Control (Russia, Crimea and Sevastopol Sanctions) Order 2014/2357, Article 10(1)  Export Control Order 2008, Article 37(1)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Russia Export Control Order and Export Control Order 2008, a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a trade licence. The UK Russia SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade – Exports and imports, and related activities, in relation to Crimea	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 70(5)	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Russia Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned.</p> <p>Under the UK Russia SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with Regulation 58(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Regulation</p>

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				58(6).  This change is unlikely to have a material impact on the obligations of financial institutions.
Enforcement	Russia (Sanctions) (EU Exit) Regulations 2019/855, Regulation 80	Ukraine (European Union Financial Sanctions) (No 2) Regulations 2014/693, Regulation 12	(b)	<b>Low Impact</b>  Regulation 80 of the UK Russia SI sets out the penalties for offences committed under the UK Russia SI. Such penalties largely mirror those set out under existing regulations, although there are a couple of changes. For instance, the penalties for a summary conviction under Regulation 80(3) have increased to a maximum term of imprisonment of 12 months (compared to a maximum of three months). The penalties for a summary conviction under Regulations 80(4)(a) and (b) have, however, decreased to a maximum term of imprisonment of six months (compared to a maximum of 12 months).  This change is unlikely to have a material impact on the obligations of financial institutions.

# Serbia and Montenegro

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
–	The Sanctions (Amendment) (EU Exit) Regulations 2019, Regulation 5	Council Regulation (EC) No 1733/94	–	<p><b>Low Impact</b></p> <p>Council Regulation (EC) No 1733/94 sets out a prohibition against claims being made in respect of the historical sanctions regimes applicable to Serbia and Montenegro. The Sanctions (Amendment) (EU Exit) Regulations 2019 makes minor changes to the Council Regulation to ensure the prohibitions continue to apply in the UK after the UK leaves the EU.</p>

# The Somalia (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The Somalia (Sanctions) (EU Exit) Regulations 2020/642 (the "UK SI")</p> <p>The Somalia (Asset-Freezing) Regulations 2010/2956 (the "EU Financial Services SI")</p> <p>EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia (the "2003 EU Regulation")</p> <p>EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (the "2010 EU Regulation")</p> <p>EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</p> <p>The Export Control (Somalia) Order 2011/146 (the "EU Export Control SI")</p> <p>The Export Control Order 2008/3231 (the "Export Control Order")</p> <p>Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</p>
Asset freeze in relation to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 12(1)	The Somalia (Asset-Freezing) Regulations 2010/2956, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by, a designated person</i>".</p> <p>The substantive difference is that the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Asset freeze in relation to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 12(5)	The Somalia (Asset-Freezing) Regulations 2010/2956, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>preventing their use to obtain funds, goods or services in any way, including, but not limited to, by selling, hiring or mortgaging them.</i>"</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services (whether by pledging them as security or otherwise).</i>" This largely mirrors the language of the EU Financial Services SI, however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that in most cases the UK SI's language of "<i>exchanging</i>" or "<i>using the economic resources in exchange for...</i>" will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise.</i>" In theory, this creates a greater scope for debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "<i>economic resources</i>" in section 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets...which can be used to obtain funds</i>" so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg.	EU Guidance 8519/18	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "<i>owned, held or controlled</i>" stating that they include:</p>

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	12(6)			<p>(a) <i>"funds or economic resources in which the person <u>has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources"</u></i> (emphasis added); and</p> <p>(b) <i>"any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in possession of the person."</i></p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that "<i>holding or controlling</i>" should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer,</p> <p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity,</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g. for the purpose of managing a specific bank account), or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear the UK SI casts a wider net on the meaning of "<i>owned, held or controlled</i>" as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 12(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance, on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity</i>" (emphasis added).</p> <p>The new language in the UK SI - which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons - mirrors EU Guidance. However under the EU Regulation there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership and control structures of their counterparties.</p>
Prohibition on making funds	The Somalia (Sanctions) (EU	The Somalia (Asset-	(c)	<b>Medium Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
and economic resources available to designated persons	Exit) Regulations 2020/642, Regs. 13 and 15	Freezing) Regulations 2010/2956, Regs. 4 and 6		<p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 13 and 15 – which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic resources available for the benefit of designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 14 and 16	The Somalia (Asset-Freezing) Regulations 2010/2956, Regs. 5 and 7	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant financial benefit</u></i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>" The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we might see a divergence between the EU and UK concepts of "making available".</p>
Non-liability for	Sanctions and	EU Council	(a)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
freezing in "good faith"	Anti-Money Laundering Act 2018, section 44	Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia, Art. 7		<p>Art. 7 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under section 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 7 and Sch. 1	-	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p>

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				<p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>[...]</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to</u> the ability to appoint or remove a majority of the board:</p> <p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p> <p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch-all, as show in subsection (4) above, and so likely having regard to 'all the circumstances' will include the factors above. However, on the fact of it, the wording of the UK SI presents a much more limited view of what constitutes 'control'.</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Sch. 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <p>Pursuant to para. 2 of Sch. 1, persons who hold a share or right jointly are each treated as holding that share or right;</p> <p>Pursuant to para. 3 of Sch. 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see para. (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>holding rights or exercising powers in order for the control test to be met.</p> <p>Para. 4 of Sch. 1 defines a person holding "more than 50% of the shares" in a person to be a person holding shares comprised in the issued share capital of that person "of a nominal value exceeding (in aggregate) 50% of that share capital". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focuses on more than "50% of the proprietary" rights in a person.</p> <p>Para. 9 of Sch. 1 deals with the meaning of shares or rights being held "<u>indirectly</u>". This occurs where a person has a "majority stake" in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, para. 9(4) of Sch. 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paras. 10 and 11 of Sch. 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in para. 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				or in that person's interests (except for purposes of preserving or exercising security)).
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 43(3)	EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia, Art. 3(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The 2010 EU Regulation provides that a person who credits a frozen account with interest or other earnings on the account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only. Secondly, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 43(5)	EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal	(c)	<p><b>Low Impact</b></p> <p>The 2010 EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are</p>

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		persons, entities or bodies, in view of the situation in Somalia, Art. 3(1)(b)		transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.  This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 43(6)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on	The Somalia (Sanctions) (EU Exit) Regulations	-	(b)	<p><b>Low Impact</b></p> <p>Reg. 46 contains a new exception for acts done for the purposes of national security or</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
making funds and economic resources available to designated persons	2020/642, Reg. 46			<p>prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 47(2) – (3)	<p>The Somalia (Asset-Freezing) Regulations 2010/2956, Reg. 10</p> <p>EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia, Art. 5 and 6</p>	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences are split into those that apply in relation to non-UN designated persons and those that apply in relation to UN designated persons.</p> <p>For both UN designated and non-UN designated persons:</p> <p style="padding-left: 40px;">A licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains (see Sch. 3, Part 2, para. 2). However, (i) the types of "<i>basic needs</i>" has been split into those for an individual and those for an entity, (ii) the language appears to focus on the "<i>needs</i>" for food, etc. rather than "<i>payments for</i>" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "<i>basic needs</i>" for entities such as "<i>the payment of reasonable fees for the provision of property management services</i>" and the "<i>payment of remuneration, allowances or pensions of employees</i>". There is also a fairly broad clarification of what constitutes a "<i>dependent family member</i>" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</p> <p style="padding-left: 40px;">A licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 3, Part 2, para. 3). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be</p>

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				<p>"reasonable" (albeit this is in accordance with the practice OFSI applies already).</p> <p>A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 3, Part 2, para. 4). However, again, such fees and service charges are now required to be "reasonable".</p> <p>A licence to enable payment of extraordinary expenses remains (see Sch. 3, Part 2, para. 5). However, there is a new qualification in that the expenses must be of a designated person.</p> <p>For non-UN designated persons, the following new licensing purposes also apply:</p> <p>Enabling the functions of a diplomatic mission (see Sch. 3, Part 3, para. 7);</p> <p>Satisfaction of prior obligations (see Sch. 3, Part 3, para. 8); and</p> <p>Dealing with extraordinary situations (see Sch. 2, Part 3, para. 9) (which is not defined so is potentially flexible, but this is unclear).</p> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 49(5)	The Somalia (Asset-Freezing) Regulations 2010/2956, Reg. 10(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>
Treasury Licences	The Somalia (Sanctions) (EU	The Somalia (Asset-	(c)	<p><b>Low Impact</b></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Exit) Regulations 2020/642, Reg. 50(1)	Freezing) Regulations 2010/2956, Reg. 9(5)		<p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 53(5)	The Somalia (Asset-Freezing) Regulations 2010/2956, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or (ii) where funds are transferred to the account. The former notification requirement has been deleted from the UK SI.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 43(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 43(6). The latter notification requirement is a new addition.</p>
Information Obligations	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 53(4)	The Somalia (Asset-Freezing) Regulations 2010/2956, Sch. 1, para. 1(4)	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 39(4) that where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Somalia (Sanctions) (EU	The Somalia (Asset-	(c)	<b>Low Impact</b>

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	Exit) Regulations 2020/642, Reg. 55(6)	Freezing) Regulations 2010/2956, Sch. 1, para. 2(5)		Under the EU Financial Services SI, the Treasury was permitted to request " <i>any person in or resident in the United Kingdom</i> " to provide relevant information, whereas under the UK SI, this has been widened to any person " <i>if the Treasury believe that the person may be able to provide the information</i> ".
Information Obligations	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 55(7)(c)	The Somalia (Asset-Freezing) Regulations 2010/2956, Sch. 1, para. 2(5)(c)	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include "<i>detecting or obtaining evidence of the commission of an offence...</i>" (emphasis added).</p> <p>This is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 61	The Somalia (Asset-Freezing) Regulations 2010/2956, Sch. 1, para. 5  Export Control Order 2008/3231, Art. 43	(c)	<p><b>Low Impact</b></p> <p>In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.</p> <p>For example, information may be disclosed for any purpose stated in Reg. 4 (i.e. the purposes of the UK SI), and to "<i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i>".</p>
Trade Controls	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 21 and 28	Export Control Order 2008/3231, Art. 3	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the export of:</p> <p>military goods or IED components, to, or for use in, Somalia (Reg. 21); and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>military goods to designated persons (Reg. 28).</p> <p>This prohibition on the export of military goods to Somalia is not contained in the EU Regulations (consistent with the European Union's Common Security and Defence Policy) (however the prohibition on the supply of IED components is contained in Art. 3c of the 2003 Regulation, albeit referring to slightly different categories of goods). However, this is in line with the general prohibition on the export of military goods (subject to exceptions and licensing) contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day). The UK SI includes a larger category of goods covered by Reg. 21, being both military goods and IED component goods, set out in Sch. 2 of the UK SI – please note this Sch. refers to different goods from those contained in Annex III of the 2003 Regulation which contains the EU's list of IED components. The UK SI provisions will sit alongside the Export Control Order provisions.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 22 and 29	Export Control Order 2008/3231, Arts. 21-23	(b)	<p><b>High Impact</b></p> <p>The UK SI introduces a prohibition on the direct or indirect supply or delivery of:</p> <p>military goods and IED components goods from a third country to a place in Somalia (Reg. 22); and</p> <p>military goods from a third country to a designated person (Reg. 29).</p> <p>This prohibition on the supply or delivery of military goods to Somalia is not contained in the EU Regulations (consistent with the European Union's Common Security and Defence Policy) (however the prohibition on the supply of IED components is contained in Art. 3c of the 2003 Regulation, albeit referring to slightly different categories of goods). As above, the definition of IED components is set out in Sch. 2 of the UK SI – this refers to different goods from those contained in Annex III of the 2003 Regulation which contains the EU's list of IED</p>

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				<p>components.</p> <p>However, this is in line with the general prohibitions (subject to exceptions and licensing) contained in the Export Control Order at Arts. 21 to 23 (and the defence for "no reasonable suspicion" in Art. 34). This prohibition covers the supply or delivery, agreement to supply or deliver, and acts calculated to promote the supply or delivery of military goods subject to trade controls (i.e., Category A, B and C goods). Two key differences are:</p> <p>(1) Arts. 22 and 23 in the Export Control Order contain an exception for the provision of financing and financial services for Category B and C goods. This exception does not exist in the UK SI. If the trade controls in the UK SI and the Export Control Order are to run in parallel, the UK SI will capture financial services where the Export Control Order does not (however, is it a defence if that person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Somalia).</p> <p>(2) The UK SI's prohibition goes beyond the Common Military List/Sch. 2 of the Export Control Order to include IED Component Goods (set out in Sch. 2 of the UK SI).</p> <p>The UK SI provisions will sit alongside the Export Control Order provisions.</p>
Trade Controls	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 23-24 and Regs. 30-31	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI introduces a new prohibition on directly or indirectly making:</p> <p>military goods, IED component goods, military technology or IED component technology available to a person connected with Somalia or for use in Somalia (Reg. 23); and</p> <p>military goods or technology available to a designated person (Reg. 30).</p> <p>Similarly it is also now prohibited to transfer:</p>

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				<p>military technology or IED component technology to a place in Somalia or to a person connected with Somalia (Reg. 24); and</p> <p>military technology to a designated person.</p> <p>It is a defence to show that the person did not know, and had no reasonable cause to suspect, that the goods were destined or for use in Somalia, a person connected with Somalia or a designated person.</p> <p>The definition of "connected with" is extremely broad and includes:</p> <p>An individual who is, or an associated or combination of individuals who are, <u>ordinarily resident in</u> Somalia;</p> <p>An individual who is, or an associated or combination of individuals who are, <u>located in</u> Somalia;</p> <p>A person, other than an individual, which is incorporated or constituted under the law of Somalia; or</p> <p>A person, other than an individual, which is domiciled in Somalia.</p> <p>This will be more difficult to screen for.</p> <p>This prohibition does not appear in the EU Financial Services SI, the EU Regulations or the Export Control Order. The prohibition is broadly drafted, particularly the prohibition on "indirectly making available" which could capture financial transactions to facilitate the movement or purchase of targeted goods by someone "connected with" Somalia, or for use in Somalia.</p> <p>Financial institutions will again need to ensure sufficient diligence is conducted on transactions to identify any touchpoint to Somalia, to ensure they can benefit from the</p>

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				defence of having "no reasonable cause to suspect".
Trade Controls	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 25 and 32	<p>EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 1</p> <p>EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia, Art. 8(a)</p> <p>Export Control</p>	(c) and (b)	<p>Low Impact</p> <p>The 2010 EU Regulation and the 2003 EU Regulation contain a prohibition which broadly targets the provision of technical assistance related to military activities, including the manufacture, maintenance or use of military goods and technology to designated persons, or to persons, entities or bodies in Somalia.</p> <p>The new UK SI contains similar prohibitions at Reg. 25 and Reg. 32, subject to some material changes of note:</p> <p>(a) the language used is narrower (e.g., the country prohibition does not include the reference contained in the 2003 EU Regulation to "<i>assistance or training... related to military activities, including in particular training and assistance related to the manufacture, maintenance and use of arms and related materiel of all types</i>"). Therefore, this technically applies a narrower prohibition, however as the definition of "technical assistance" includes 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, this is unlikely to have any material impact.</p> <p>(b) the provision of technical assistance to "<i>a person connected with Somalia</i>" is now prohibited. As above, this is a broad definition and wider than the scope of a designated person.</p> <p>(c) it is a defence to show that there was no knowledge, or reasonable cause to suspect, that the person was connected with Somalia or the goods or technology were for use in Somalia.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		(Somalia) Order 2011/146, Art. 2(a)		
Trade Controls	<p>Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 26 and Reg. 33</p> <p>Sanctions and Anti-Money Laundering Act 2018, s. 61</p>	<p>EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 1</p> <p>EU Council Regulation 356/2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia, Art. 8</p>	(a) and (b)	<p><b>Medium Impact</b></p> <p>The prohibition on providing financial services and funds related to military goods and technology to designated persons in Somalia is broader than the equivalent provisions in the EU Regulations. Specifically, there are restrictions on:</p> <p>(1) Directly or indirectly providing, to a person connected with Somalia <u>or</u> a designated person, financial services in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the export of military goods,</li> <li>(b) the direct or indirect supply or delivery of military goods,</li> <li>(c) directly or indirectly making military goods or military technology available to a person,</li> <li>(d) the transfer of military technology, or</li> <li>(e) the direct or indirect provision of technical assistance relating to military goods or military technology.</li> </ul> <p>(2) Directly or indirectly making funds available to a person connected with Somalia <u>or</u> a designated person in pursuance of or in connection with an arrangement mentioned in (1) above.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Export Control (Somalia) Order 2011/146, Art. 2(b)		<p>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is;</p> <ul style="list-style-type: none"> <li>(a) the export of military goods to, or for use in, Somalia or a designated person,</li> <li>(b) the direct or indirect supply or delivery of military goods to a place in Somalia <u>or</u> a designated person,</li> <li>(c) directly or indirectly making military goods or military technology available to a person connected with Somalia or for use in Somalia <u>or</u> a designated person,</li> <li>(d) the transfer of military technology to a person connected with Somalia or for use in Somalia <u>or</u> a designated person, or</li> <li>(e) the direct or indirect provision of technical assistance relating to military goods or military technology to a person connected with Somalia or for use in Somalia <u>or</u> a designated person.</li> </ul> <p>The key differences for financial institutions are as follows:</p> <ul style="list-style-type: none"> <li>(a) as the definition of "connected person" is extremely wide (see above) and this category of persons is broader than designed persons, and will therefore fall outside screening procedures – this is particularly concerning for the prohibition at (2) on "making funds available" to such persons.</li> <li>(b) the UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services", which is non-exhaustively defined in the SAMLA as including insurance-related, banking and other financial services. The examples of "financial assistance" listed in the 2003 EU Regulation are explicitly covered by the SAMLA (that is, loans and export credit insurance) except for grants. It is not clear</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case.</p> <p>(c) it is a defence to show that there was no knowledge, or reasonable cause to suspect, that the person was connected with Somalia, or that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned above.</p>
Trade Controls	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 27 and Reg. 34	-	(b)	<p><b>High Impact</b></p> <p>The UK SI introduced new prohibitions on brokering services for arrangements where the object or effect is:</p> <ul style="list-style-type: none"> <li>the direct or indirect supply or delivery of military goods from a third country to a place in Somalia <u>or</u> a designated person;</li> <li>directly or indirectly making military goods or technology available in a third country for direct or indirect supply or delivery to a person connected with Somalia or to a place in Somalia <u>or</u> a designated person;</li> <li>the transfer of, or making available for transfer, military technology from a place in a third country to a person connected with Somalia or to a place in Somalia <u>or</u> a designated person;</li> <li>the direct or indirect provision in a non-UK country, of technical assistance relating to military goods or technology to a person connected with Somalia or to a place in Somalia <u>or</u> a designated person;</li> <li>the direct or indirect provision, in a non-UK country, of financial services to a person connected with Somalia (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 or Reg. 33 (outlined above));</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>directly or indirectly making funds available, in a non-UK country, to a person connected with Somalia (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 or Reg. 33 (outlined above)); or</p> <p>the direct or indirect provision of funds from a non-UK country, where the arrangement or any other connected arrangement is within the scope of Reg. 26 or Reg. 33 (outlined above).</p> <p>It is a defence if there is no knowledge or reasonable cause to suspect that brokering services were provided in relation to an arrangement mentioned in that paragraph.</p> <p>These prohibitions do not exist in either the 2003 EU Regulation or the 2010 EU Regulation (albeit there may be some overlap with Arts. 21-23 of the Export Control Order). The UK SI's definition of "brokering services" is generally broad (covering, amongst other things "<i>the provision of any assistance that in any way promotes or facilitates the arrangement</i>"). This prohibition also covers the provision of funds and financial services in circumstances not previously targeted by the EU, and therefore could capture activities of financial institutions.</p>
Trade Controls	-	EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 2a	(a)	<p><b>Potentially Medium Impact</b></p> <p>The 2003 EU Regulation (the country-targeted prohibitions) contains a large number of exemptions to the trade control restrictions contained in Art. 1 for the provision of financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in Somalia. These are not replicated here but relate broadly to activities designed to support the African Union Mission in Somalia, development of the Somali National Security Forces and the European Union Training Mission in Somalia.</p> <p>These exemptions are not carried forward into the UK SI which could have an impact on financial institutions that currently rely on these exemptions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	-	EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 3	(a)	<p><b>Potentially Medium Impact</b></p> <p>The 2003 EU Regulation contains an exception to the prohibitions on (i) the provision of financing and financial assistance related to military activities for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in Somalia, and (ii) the grant, sale, supply or transfer of technical advice, assistance or training related to military activities, directly or indirectly to any person, entity or body in Somalia, in respect of the following:</p> <p>(a) <i>"the provision of financing and financial assistance for the sale, supply, transfer or export of non-lethal military equipment intended solely for humanitarian or protective use, or for material intended for institution building programmes of the Union or Member States, including in the field of security, carried out within the framework of the Peace and Reconciliation Process; or</i></p> <p>(b) <i>the provision of technical advice, assistance or training related to such non-lethal equipment.</i></p> <p>(c) <i>to protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only".</i></p> <p>The 2003 EU Regulation also includes an exception to the prohibition on participating, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in Art. 1 (i.e., those listed above) in respect of:</p> <p><i>"participation in activities the object or effect of which is to promote the activities the object or effect of which is to promote activities that have been approved by the Committee established by paragraph 11 of Resolution 751 (1992) of the Security Council of the</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>United Nations</i>".</p> <p>These exceptions have not been carried across into the UK SI which may impact financial institutions that currently rely on them.</p>
Trade prohibitions relating to charcoal	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Regs. 37-39	EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 3b(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The 2003 EU Regulation contains prohibitions on the import, purchase and transport of charcoal if it originates in Somalia or has been exported from Somalia. The new UK SI contains similar prohibitions, however it contains broader language targeting the acquisition of, and "direct or indirect supply or delivery" of charcoal, which is somewhat broader. Further, the UK SI provides a defence (for the "transport" and "purchase" offences) for persons who did not know and had no reasonable cause to suspect that the charcoal originated in or was consigned from Somalia. This is not contained in the EU Regulations.</p> <p>This is unlikely to have any impact on the obligations of financial institutions.</p>
Trade prohibitions relating to charcoal	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 40	EU Council Regulation 147/2003 concerning certain restrictive measures in respect of Somalia, Art. 3b(1)(d)-(e)	(b)	<p><b>Low Impact</b></p> <p>The 2003 EU Regulation contains a prohibition on providing, directly or indirectly, financing or financial assistance, as well as insurance and re-insurance related to the import, transport or purchase of charcoal from Somalia, and participating knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibitions.</p> <p>The new UK SI contains a similar prohibition on directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is related to the import, purchase, supply or delivery of charcoal originating in, or consigned from Somalia (subject to exceptions and licences). However, the UK SI provides a defence for persons who did not know and had no reasonable cause to suspect that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in the provision – this is not contained in the 2003 Regulation.</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Control Licences	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 49(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<p><b>Low Impact</b></p> <p>Reg. 49(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be "<i>limited so as to expire on a specified date unless renewed</i>". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.</p>
Trade Control Licences	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 51(2)	The Export Control Order 2008/3231, Art. 38(1)-(2)	(c)	<p><b>Low Impact</b></p> <p>Pursuant to Reg. 51(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 51(2) there is no carve-out from the offence where the licence is modified after completion of the act authorised. This means that the UK SI contains a broader prohibition.</p>
Defences	Somalia (Sanctions) (EU Exit) Regulations 2020/642, Reg. 42(2)	-	(b)	<p><b>Medium Impact</b></p> <p>There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.</p> <p>This will make it easier for financial institutions to rely on defences.</p>

# The South Sudan (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The South Sudan (Sanctions) (EU Exit) Regulations 2019/438 (the "UK SI")</p> <p>The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361 (the "EU Financial Services SI")</p> <p>EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014 (the "EU Regulation")</p> <p>EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</p> <p>Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258 (the "EU Export Control SI")</p> <p>Export Control Order 2008/3231 (the "Export Control Order")</p> <p>Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</p>
Asset freeze in relation to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 12(1)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by, a designated person</i>".</p> <p>The substantive difference is that the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 12(5)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>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</i>".</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise)</i>". This largely mirrors the language of the EU Financial Services SI, however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely in most cases that the UK SI's language of "<i>exchang[ing]</i>" or "<i>us[ing]</i> the economic resources in exchange for..." will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise</i>". In theory, this creates a greater scope for debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "<i>economic resources</i>" in section 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets...which can be used to obtain funds</i>" so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 12(6)	EU Guidance 8519/18	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "<i>owned, held or controlled</i>" stating that they include:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) <i>"funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources" (emphasis added); and</i></p> <p>(b) <i>"any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in possession of the person".</i></p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that "<i>holding or controlling</i>" should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer;</p> <p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity;</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g., for the purpose of managing a specific bank account); or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear the UK SI casts a wider net on the meaning of "<i>owned, held or controlled</i>" as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 12(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance, on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity</i>" (emphasis added).</p> <p>The new language in the UK SI – which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons – mirrors EU Guidance. However under the EU Regulation there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure that they have appropriate checks and balances in place to identify the ownership and control structures of their counterparties.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Regs. 13 and 15	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 13 and 15 – which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure that they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic resources available for the benefit of designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Regs. 14 and 16	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Regs. 5 and 7	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant financial benefit</u></i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>" The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we could</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				see a divergence between the EU and UK concepts of "making available".
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, s. 44	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 16(1)	(a)	<p><b>Low Impact</b></p> <p>Art. 16 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under section 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 7 and Sch. 1	-	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p>

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				<p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>[...]</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to</u> the ability to appoint or remove a majority of the board:</p> <p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p>

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				<p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p> <p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch all, as shown in subsection (4) above, and so likely having regard to 'all the circumstances' will include the factors above. However, on the fact of it, the wording of the UK SI presents a much more limited view of what constitutes 'control'.</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Schedule 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <p>Pursuant to paragraph 2 of Schedule 1, persons who hold a share or right jointly are each treated as holding that share or right;</p> <p>Pursuant to paragraph 3 of Schedule 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see paragraph (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only</p>

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				<p>one person holding rights or exercising powers in order for the control test to be met.</p> <p>Paragraph 4 of Schedule 1 defines a person holding "more than 50% of the shares" in a person to be a person holding shares comprised in the issued share capital of that person "of a nominal value exceeding (in aggregate) 50% of that share capital". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than "50% of the proprietary" rights in a person.</p> <p>Paragraph 9 of Schedule 1 deals with the meaning of shares or rights being held "<u>indirectly</u>". This occurs where a person has a "majority stake" in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, paragraph 9(4) of Schedule 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paragraphs 10 and 11 of Schedule 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in paragraph 14 in</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions or in that person's interests (except for purposes of preserving or exercising security)).
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 31(3)	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 13(2)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with interest or other earnings due on an account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e., firms with Part 4A permission under FSMA) only. Secondly, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 31(5)	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014,	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by "<i>the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on</i></p>

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		Art. 13(2)(b)		<p><i>which the person became a designated person".</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 31(6)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(1) The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 31	EU Council Regulation 2015/735 concerning	(b)	<p><b>Medium Impact</b></p> <p>The exception under the EU Regulation allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in the EU or</p>

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resources available to designated persons		restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 13(3)		enforceable in the EU Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted (and there is no equivalent carried across in respect of judicial, administrative or arbitral decisions rendered in the UK or enforceable in the UK).
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 32	-	(b)	<p><b>Low Impact</b></p> <p>Reg. 32 contains a new exception for acts done for the purposes of national security or prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 33 (2)-(3)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 9  EU Council Regulation	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences in respect of asset freeze restrictions are split into those that apply in relation to a non-UN designated person and those that apply in relation to a UN designated person.</p> <p>For both UN designated and non-UN designated persons:</p> <p style="padding-left: 40px;">A licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains (see Sch. 2, Part 2, para. 2). However, (i) the types of "<i>basic needs</i>" has been split into those for an</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Arts. 6, 7, 8, 11 and 12		<p>individual and those for an entity, (ii) the language appears to focus on the "needs" for food etc. rather than "payments for" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "basic needs" for entities such as "the payment of reasonable fees for the provision of property management services" and the "payment of remuneration, allowances or pensions of employees". There is also a fairly broad clarification of what constitutes a "dependent family member" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</p> <p>A licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 2, Part 2, para. 3). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "reasonable" (albeit this is in accordance with the practice OFSI applies already).</p> <p>A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 2, Part 2, para. 4). However, again, such fees and service charges are now required to be "reasonable".</p> <p>A licence to enable payment of extraordinary expenses remains (see Sch. 2, Part 2, para. 5). However, there is a new qualification in that the expenses must be of a designated person.</p> <p>A licence in respect of prior obligations still remains (see Sch. 2, Part 2, para. 7). However, the provision in the UK SI does not on its face require the funds or economic resources to be used for a <u>payment</u> by a designated person, and instead provides for "the use of a designated person's frozen funds or economic resources...", which may broaden the potential for licences to be</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>granted to third parties for the same. In addition, the new provision requires that "<i>the obligation arose before the date on which the person became a designated person</i>". This appears to potentially be narrower than the licensing ground in the EU Regulation which also applies where the "<i>contract or agreement... was concluded... before the date on which [the person was designated]</i>". For the purposes of a licence application on this ground, the key criterion will therefore be on what date the obligation in question arose rather than the date the agreement in question concluded, and therefore precludes the use of any arguments in relation to extension of the term of pre-existing agreements.</p> <p>For non-UN designated persons, the following new licensing purposes also apply (see Sch. 2, Part 3):</p> <p>Diplomatic missions; and</p> <p>Extraordinary situations (which is not defined so is potentially flexible, but this is unclear).</p> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 35(5)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>
Treasury Licences	The South Sudan	The South	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	(Sanctions) (EU Exit) Regulations 2019/438, Reg. 36(1)	Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 9(5)		<p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 39(5)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Reg. 8(4)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account (i) with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, (ii) with payments due under judicial, administrative or arbitral decisions rendered in the EU or enforceable in the EU Member State concerned, or (iii) where funds are transferred to the account. The first two notification requirements have been deleted from the UK SI.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 31(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 31(6). The latter notification requirement is a new addition.</p>
Information Obligations	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 39(4)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Sch.	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 39(4) that where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added).</p>

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		1, para. 1(4)		This change is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 41(6)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Sch. 1, para. 2(5)	(c)	<b>Low Impact</b>  Under the EU Financial Services SI, the Treasury was permitted to request " <i>any person in or resident in the United Kingdom</i> " to provide relevant information, whereas under the UK SI, this has been widened to any person " <i>if the Treasury believe that the person may be able to provide the information</i> ".
Information Obligations	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 41(7)(c)	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Sch. 1, para. 2(5)(c)	(c)	<b>Low Impact</b>  Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include " <i>detecting or obtaining evidence of the commission of an offence...</i> " (emphasis added).  This is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 47	The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015/1361, Sch. 1, para. 5	(c)	<b>Low Impact</b>  In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.

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		Export Control Order 2008/3231, Art. 43		For example, information may be disclosed for any purpose stated in Reg. 4 (i.e., the purposes of the UK SI), and to " <i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i> ".
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 21	The Export Control Order 2008/3231, Art. 3	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the export of military goods to, or for use in, South Sudan. This is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy). However, this is in line with the general prohibition (subject to exceptions and licensing) on the export of military goods contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day) and the UK SI provisions will sit alongside the same.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 22	Export Control Order 2008/3231, Art. 20	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the direct or indirect supply or delivery of military goods from a third country to a place in South Sudan, unless the person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for South Sudan. This prohibition is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy).</p> <p>However, this is in line with the general prohibition (subject to exceptions and licensing) contained in the Export Control Order at Art. 20 (and the defence for "no reasonable suspicion" in Art. 34). The Export Control Order prohibits the supply or delivery, an agreement to supply or deliver, and any act calculated to promote the supply or delivery to South Sudan (being an "embargoed destination"). The UK SI provisions will sit alongside this.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Regs. 23-24	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI introduces at Reg. 23 a new prohibition on directly or indirectly making military goods or military technology available to a person connected with South Sudan or for use in South Sudan, however it is a defence if there is no knowledge, or reasonable cause to suspect that the person was connected with South Sudan, or that the goods or technology were for use in South Sudan.</p> <p>Similarly, by virtue of Reg. 24, it is also now prohibited to transfer military technology to a place in South Sudan or to a person connected with South Sudan (unless there was no knowledge, or reasonable cause to suspect, that the transfer was to a place in South Sudan or to a person connected with South Sudan). This will be more difficult to screen for.</p> <p>The definition of "connected with" is extremely broad and includes:</p> <ul style="list-style-type: none"> <li>an individual who is, or an associated or combination of individuals who are, <u>ordinarily resident in</u> South Sudan;</li> <li>an individual who is, or an associated or combination of individuals who are, <u>located in</u> South Sudan;</li> <li>a person, other than an individual, which is incorporated or constituted under the law of South Sudan; or</li> <li>a person, other than an individual, which is domiciled in South Sudan.</li> </ul> <p>This prohibition does not appear in the EU Financial Services SI, the EU Regulation or the Export Control Order. The prohibition is broadly drafted, particularly the prohibition on</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				"indirectly making available" military goods and technology. This could capture financial transactions to facilitate the movement or purchase by someone "connected with" South Sudan or use in South Sudan. Financial institution will again need to ensure sufficient diligence is conducted on transactions to identify any touchpoint to South Sudan, to ensure that they can benefit from the defence of having "no reasonable cause to suspect".
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 25	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 2(1)  Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg. 5(a)	(a) and (b)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a prohibition on the direct or indirect provision of technical assistance, brokering services (discussed below) or other services related to military activities or to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefore, directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan. This was transposed into UK law by the EU Export Control SI.</p> <p>The new UK SI contains a prohibition on the direct or indirect provision of technical assistance relating to military goods or military technology, with a number of key differences:</p> <ul style="list-style-type: none"> <li>(a) the scope of the UK SI's prohibition is limited to military goods and technology (which is, in summary, that specified in Sch. 2 of the Export Control Order (i.e., the Common Military List)) – this is significantly narrower than the scope of the prohibition in the EU Regulation, which is not limited to specific goods;</li> <li>(b) the UK SI also does not carry over the concept of "other services" contained in the EU Regulation, making the prohibition even narrower;</li> <li>(c) the UK SI prohibits the provision of technical assistance to "<i>a person connected with South Sudan</i>". As above, this is an extremely broad definition and wider than the scope of a designated person; and/or</li> </ul>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				(d) the EU Export Control SI stipulates that, for an offence to occur in relation to the provision of technical assistance, a person must be knowingly concerned in activity <u>with the intent to evade the prohibition</u> in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 26  Sanctions and Anti-Money Laundering Act 2018, section 61	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 2(2)  Export Control (Sudan, South Sudan and Central African Republic Sanctions)	(a) and (b)	<b>Medium Impact</b>  The UK SI's prohibition on providing financial services and funds related to military goods and technology to persons in, or for use in South Sudan is broader than the equivalent provisions in the EU Regulation and EU Export Control SI. Specifically, there are restrictions on:  (1) Directly or indirectly providing, to a person connected with South Sudan, financial services in pursuance of or in connection with an arrangement whose object or effect is:  (a) the export of military goods,  (b) the direct or indirect supply or delivery of military goods,  (c) directly or indirectly making military goods or military technology available to a person,  (d) the transfer of military technology, or  (e) the direct or indirect provision of technical assistance relating to military goods or military technology.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulations 2014/3258, Reg. 5(b)		<p>(2) Directly or indirectly making funds available to a person connected with South Sudan in pursuance of or in connection with an arrangement mentioned in (1) above.</p> <p>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</p> <ul style="list-style-type: none"> <li>(a) the export of military goods to, or for use in, South Sudan,</li> <li>(b) the direct or indirect supply or delivery of military goods to a place in South Sudan,</li> <li>(c) directly or indirectly making military goods or military technology available to a person connected with South Sudan or for use in South Sudan,</li> <li>(d) the transfer of military technology to a person connected with South Sudan or for use in South Sudan, or</li> <li>(e) the direct or indirect provision of technical assistance relating to military goods or military technology to a person connected with South Sudan or for use in South Sudan.</li> </ul> <p>The key differences for financial institutions are as follows:</p> <ul style="list-style-type: none"> <li>(a) as the definition of "connected person" is extremely wide (see above) and this category of persons is broader than designated persons, and will therefore fall outside screening procedures – this is particularly concerning for the prohibition at (2) on the "making funds available" to such persons.</li> <li>(b) the UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services", which is non-exhaustively defined in the SAMLA as including insurance-related, banking and other financial services. The EU listed</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>examples of "financial assistance" are all explicitly covered by the SAMLA (that is, loans, export credit insurance, insurance and reinsurance) except for grants. It is not clear whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case;</p> <p>(c) it was prohibited under the EU Regulation/EU Export Control SI to provide financing or financial assistance for the provision of related brokering services or "other services". It appears this prohibition is not explicitly replicated; and/or</p> <p>(d) the EU Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance to designated persons related to military activities, a person must be knowingly concerned in the provision of such financing or financial assistance with the intent to evade the prohibition in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 27	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing		<p><b>High Impact</b></p> <p><u>Change in Definition</u></p> <p>The UK SI's definition of "brokering services" is wider than in the EU Regulation (where it is, in summary limited to: (i) buying or selling; or (ii) the negotiation or arrangement of transactions for purchase, sale or supply of goods, technology or financial or technical services from a third country to another third country).</p> <p>Under the UK SI, it includes:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Regulation (EU) No 748/2014, Art. 2(1)  Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg. 5(a)		<p>Any services to secure, or otherwise in relation to, an arrangement, including (but not limited to):</p> <ul style="list-style-type: none"> <li>(a) the selection or introduction of persons as parties or potential parties to the arrangement;</li> <li>(b) the negotiation of the arrangement;</li> <li>(c) the facilitation of anything that enables the arrangement to be entered into; and</li> <li>(d) the provision of any assistance that in any way promotes or facilitates the arrangement.</li> </ul> <p><u>Change in Prohibition</u></p> <p>Under the EU Regulation and the EU Export Control SI, the prohibition of brokering services is in relation to military activities or to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefore, directly or indirectly to any natural or legal person, entity or body in, or for use in South Sudan.</p> <p>In the UK SI, the scope of the prohibition against brokering services is, on its face, wider. It covers arrangements where the object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the direct or indirect supply or delivery of military goods from a third country to a place in South Sudan;</li> <li>(b) directly or indirectly making military goods or technology available in a third country for direct or indirect supply or delivery to a person connected with South Sudan or to a place in South Sudan;</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) the transfer of, or making available for transfer, military technology from a place in a third country to a person connected with South Sudan or to a place in South Sudan;</p> <p>(d) the direct or indirect provision in a non-UK country, of technical assistance relating to military goods or technology to a person connected with South Sudan or to a place in South Sudan;</p> <p>(e) the direct or indirect provision, in a non-UK country, of financial services to a person connected with South Sudan or to a place in South Sudan (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above));</p> <p>(f) directly or indirectly making funds available, in a non-UK country, to a person connected with South Sudan (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above)); or</p> <p>(g) the direct or indirect provision of funds from a non-UK country, where the arrangement or any other connected arrangement is within the scope of Reg. 26 (outlined above).</p> <p>The UK SI is broader in a material respect, as the notion of a person "connected with" South Sudan is broader than the provision of brokering services to a person "<i>in, or for use in, South Sudan</i>". However, its scope is also significantly narrowed by the fact that it is related only to the provision of military goods or technology (i.e., the Common Military List) whereas the EU Regulation goes beyond specific goods to cover all military activities, etc.</p> <p>As above, the UK SI does not contain a requirement on the prosecution to establish "intent to evade", which is currently required under the EU Export Control SI. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg.30).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 28  Sanctions and Anti-Money Laundering Act 2018, s. 61	EU Council Regulation 2015/735 concerning restrictive measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 2(3)  Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014/3258, Reg. 5(c)	(b)	<b>Medium Impact</b>  There is a prohibition in the EU Regulation against technical assistance, financing or financial assistance or brokering services related to the provision of armed mercenary personnel in South Sudan or for use in South Sudan. However, the UK SI includes a prohibition on the direct or indirect provision of technical assistance, armed personnel, financial services or funds, or brokering services where such provision enables or facilitates the conduct or armed hostilities in South Sudan.  The UK SI's wording is broader (targeting the "facilitation" of armed hostilities rather than the provision of a mercenary). Further, given that "financial services" are non-exhaustively and broadly defined under the SAMLA as including insurance-related, banking and other financial services, this has a potentially wide application which could capture the transactions arranged by financial institutions. It is, however, a defence to show there was no knowledge, or reason to suspect, that the relevant act would enable or facilitate the conduct of armed hostilities in South Sudan.
Trade Controls	-	EU Council Regulation 2015/735 concerning restrictive	(a)	<b>Potentially Medium Impact</b>  The EU Regulation contains an exemption to the trade control restrictions contained in Art. 2 for the provision of technical assistance, financing or financial assistance or brokering services:

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		measures in respect of the situation in South Sudan, and repealing Regulation (EU) No 748/2014, Arts. 3 and 4		<p>(a) <i>arms and related materiel, intended solely for the support of or use by UN personnel, including the United Nations Mission in the Republic of South Sudan (UNMISS) and the United Nations Interim Security Force for Abyei (UNISFA);</i></p> <p>(b) <i>protective clothing, including flak jackets and military helmets, temporarily exported to South Sudan by UN personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.</i></p> <p>The EU Regulation also specifies that financing and financial assistance, technical assistance and brokering services related to the following may be authorised (if notified to and approved by the Sanctions Committee in advance):</p> <p>(a) <i>non-lethal military equipment intended solely for humanitarian or protective use;</i></p> <p>(b) <i>arms and related materiel temporarily exported to South Sudan by the forces of a State which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan;</i></p> <p>(c) <i>arms and related materiel, to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord's Resistance Army;</i></p> <p>(d) <i>arms and related materiel solely in support of the implementation of the terms of the peace agreement;</i></p> <p>(e) <i>other sales or supply of arms and related materiel, or provision of assistance or personnel.</i></p> <p>These exemptions are not carried forward into the UK SI which could have an impact for financial institutions that currently rely on these exemptions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Control Licences	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 35(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<b>Low Impact</b> Reg. 35(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be " <i>limited so as to expire on a specified date unless renewed</i> ". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.
Trade Control Licences	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 37(2)	The Export Control Order 2008/3231, Art. 38(1)-(2)	(c)	<b>Low Impact</b> Pursuant to Reg. 37(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 37(2) there is no carve-out from the offence where the licence is modified after completion of the act authorised. This means that the UK SI contains a broader prohibition.
Defences	The South Sudan (Sanctions) (EU Exit) Regulations 2019/438, Reg. 30(2)	-	(b)	<b>Medium Impact</b> There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.  This will make it easier for financial institutions to rely on defences.
Satisfaction of claims	-	EU Council Regulation 2015/735 concerning restrictive measures in respect of the	(a)	<b>Low Impact</b> The EU Regulation contains a restriction on the satisfaction of claims made by a designated person or person acting through or on behalf of a designated person in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under the EU Regulation.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		situation in South Sudan, and repealing Regulation (EU) No 748/2014, Art. 17		This is not carried forward into the UK SI but is unlikely to have a material impact for financial institutions.

# The Sudan (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 12(1)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Sudan (European Union Financial Sanctions) Regulations 2014 (the "EU Financial Services SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in The Sudan (Sanctions) (EU Exit) Regulations 2020 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 12(2)(b)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 3(5)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 12(6)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 12(7)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 3	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 13(4)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 4	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 14(4)(b)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 5(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making funds available to any person for the benefit of a designated person, the EU Financial Services SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 15(4)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 16(4)(b)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 7(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to any person for the benefit of a designated person, the EU Financial Services SI previously defined the phrase "<i>financial benefit</i>" to include the discharge of a financial obligation for which the designated person is wholly or partly responsible.</p> <p>This definition has been extended slightly in the UK SI to include a "<i>partial discharge</i>" of such financial obligations as well.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Ownership and control provisions	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to	The Sudan	The Sudan	(b)	<p><b>Low Impact</b></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
asset freeze and prohibition on making funds and economic resources available to designated persons	(Sanctions) (EU Exit) Regulations 2020, Reg. 31(1)-(2)	(European Union Financial Sanctions) Regulations 2014, Reg. 3		<p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 31(3)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 31(5)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 31(6)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 8	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 31	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Financial Services SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Treasury Licences	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 34(2)-(4)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 9	(b), (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts in relation to a UN designated person, and acts "<i>by a particular person</i>" in relation to a non-UN designated person, to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI.</p> <p>This provision as it relates to non-UN designated persons should be contrasted with, for example, regulation 33(2) of the Yemen (Sanctions) (EU Exit) Regulations 2020/733. Whilst the provisions are similar, in the new Yemeni Regulations the phrase "<i>by a particular person</i>" has been omitted. It should further be noted that the grounds for granting a licence differ.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 36(5)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 9(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Treasury Licences	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 37(1)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 40(5)	The Sudan (European Union Financial Sanctions) Regulations 2014, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in a EU Member State or enforceable in the Member State concerned.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 31(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with regulation 31(6).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The Sudan (Sanctions) (EU Exit) Regulations 2020, Regs. 21-24-	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains express restrictions on the export of military goods to or for use in Sudan, and the supply or delivery of military goods from a third country to Sudan. There is also a restriction on making military goods or technology available to, or transferring military technology to, a person connected with Sudan or for use in Sudan.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as similar restrictions are currently contained in the Export Control Order 2008.</p>
Trade Controls	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 25	The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014, Reg. 4(a)	(c)	<p><b>Low Impact</b></p> <p>The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 (the "EU Export Control SI") prohibited providing technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefor, directly or indirectly to <i>any natural or legal person, entity or body in</i>, or for use in Sudan. For an offence to occur, a person must be <i>knowingly</i> concerned in the provision of such technical assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI, by contrast, prohibits a person from directly or indirectly providing technical assistance relating to military goods or military technology to a <i>person connected with Sudan</i> or for use in Sudan. A person is connected with Sudan if ordinarily resident in Sudan, located in Sudan, incorporated or constituted under the law of Sudan, or domiciled in Sudan (Reg.20(4)). In addition, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person was connected with Sudan or that the goods or technology were for use in Sudan. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 30).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 27	The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014, Reg. 4(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI prohibited providing brokering services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts therefor, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan. For an offence to occur, a person must be <i>knowingly</i> concerned in the provision of such brokering services with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI, by contrast, prohibits a person from directly or indirectly providing brokering services in relation to an arrangement whose object or effect concerns the supply, delivery or transfer of military goods and technology from a third country to a person connected with Sudan or to a place in Sudan. A person is connected with Sudan if ordinarily resident in Sudan, located in Sudan, incorporated or constituted under the law of Sudan, or domiciled in Sudan (Reg.20(4)). In addition, the UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person was connected with Sudan or that the goods or technology were for use in Sudan. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 30).</p>
Trade Controls	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 26	The Export Control (Sudan, South Sudan and Central African Republic	(c)	<p><b>Low Impact</b></p> <p>The prohibition on providing financial services and funds relating to military goods and technology to a person connected with Sudan is broader than the equivalent provisions in the EU Export Control SI. Specifically:</p> <p>(1) <i>A person must not directly or indirectly provide, to a person connected with Sudan, financial services in pursuance of or in connection with an arrangement whose object</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Sanctions) Regulations 2014, Reg. 4(b)		<p><i>or effect is—</i></p> <p>(a) <i>the export of military goods,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available to a person,</i></p> <p>(d) <i>the transfer of military technology, or</i></p> <p>(e) <i>the direct or indirect provision of technical assistance relating to military goods or military technology.</i></p> <p>(2) <i>A person must not directly or indirectly make funds available to a person connected with Sudan in pursuance of or in connection with an arrangement mentioned in paragraph (1).</i></p> <p>(3) <i>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—</i></p> <p>(a) <i>the export of military goods to, or for use in, Sudan,</i></p> <p>(b) <i>the direct or indirect supply or delivery of military goods to a place in Sudan,</i></p> <p>(c) <i>directly or indirectly making military goods or military technology available—</i></p> <p>(i) <i>to a person connected with Sudan, or</i></p> <p>(ii) <i>for use in Sudan,</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(d) the transfer of military technology—</p> <p>(i) to a person connected with Sudan, or</p> <p>(ii) to a place in Sudan, or</p> <p>(e) the direct or indirect provision of technical assistance relating to military goods or military technology—</p> <p>(i) to a person connected with Sudan, or</p> <p>(ii) for use in Sudan.</p> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance related to military activities to any natural or legal person, entity or body in, or for use in Sudan, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance with the <i>intent to evade</i> the prohibition in the regulations</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 30).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The Sudan (Sanctions) (EU Exit) Regulations 2020, Reg. 28		(b)	<p><b>Medium Impact</b></p> <p>New restrictions are imposed in the UK SI concerning enabling or facilitating the conduct of armed hostilities, including a specific prohibition on directly or indirectly providing financial services or funds to or for the benefit of a designated person where such provision enables or facilitates the conduct of armed hostilities.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Syria (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<ul style="list-style-type: none"> <li>– The Syria (Sanctions) (EU Exit) Regulations 2019/792 (the "UK SI")</li> <li>– The Syria (European Union Financial Sanctions) Regulations 2012/129 and/or The Lebanon and Syria (Asset-Freezing) Regulations 2012/1517 (the "EU Financial Services SI")</li> <li>– EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (the "EU Regulation")</li> <li>– EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "<a href="#">EU Guidance</a>")</li> <li>– The Export Control (Syria Sanctions) Order 2013 (the "EU Export Control SI")</li> <li>– Export Control Order 2008/3231 (the "Export Control Order")</li> <li>– Sanctions and Anti-Money Laundering Act 2018 (the "SAML A")</li> </ul>
Asset freeze in relation to designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 11(1)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 3(1) and The Lebanon and Syria (Asset-	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SIs imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The substantive difference is that the UK SI has removed the language of funds or economic resources "<i>belonging to</i>" any designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Freezing) Regulations 2012/1517, Reg. 3(1)		
Asset freeze in relation to designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 11(5)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 3(2) and The Lebanon and Syria (Asset-Freezing) Regulations 2012/1517, Reg. 3(2)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>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</i>". The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise)</i>". This largely mirrors the language of the EU Financial Services SIs, however the reference to pledging the resources as security is new.</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that the UK SI's language of "<i>exchanging</i>" or "<i>using the economic resources in exchange for...</i>" will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise</i>". In theory, this creates a greater scope for debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "<i>economic resources</i>" in s. 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets...which can be used to obtain funds</i>" and so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to	The Syria (Sanctions) (EU	EU Guidance 8519/18	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
designated persons	Exit) Regulations 2019/792, Reg. 11(6)			<p>(a) The UK SI provides further detail on the meaning of funds or economic resources that are treated as owned, held or controlled stating that it includes: "<i>funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources</i>" (our emphasis); and</p> <p>(b) "<i>any tangible property (other than real property) or bearer security that is comprised in funds or economic resources and is in possession of the person</i>".</p> <p>This language does not appear in the EU Financial Services SIs. However, EU Guidance states that "holding or controlling" should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer;</p> <p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity;</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g., for the purpose of managing a specific bank account); or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear that the UK SI casts a wider net on the meaning of "owned, held or controlled"</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior approval from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 11(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person</i>".</p> <p>This language does not appear in the EU Financial Services SIs. However, EU Guidance on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person state that this will "<i>in principle be considered as making them indirectly available to the listed person or entity, unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit that listed person or entity</i>" (our emphasis).</p> <p>The new language in the UK SI - which prohibits dealing with the funds or economic resources of entities owned or controlled by such designated persons – mirrors EU Guidance. However under the EU Regulation there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure that they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	-	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 3(3)	(a)	<p><b>Low Impact</b></p> <p>Certain exemptions from asset freezing provisions contained in the EU Financial Services SI have not been retained in the UK SI. These exemptions are: (i) trade contract payments of the Commercial Bank of Syria ("CBS") received and used within the two-year period after CBS's designation; and separately, (ii) payments made to or for the benefit of Syrian Arab Airlines for the purposes of evacuating EU citizens and their families from Syria. The impact is likely to be low since CBS was designated over two years ago. There is a new (and broader) licensing ground for evacuations, but it is important to note that a licence would be required rather than an exemption being available (which would not require a licence).</p>
Prohibition on making funds and economic resources available to designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 12 and 14	The Syria (European Union Financial Sanctions) Regulations 2012/129, Regs. 4 and 6 and The Lebanon and Syria (Asset-Freezing) Regulations 2012/1517, Regs. 4 and 6	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SIs, at subsection (4) – which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by such designated persons.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed entities (outlined above). However under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure that they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic resources available for the	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 13 and 15	The Syria (European Union Financial Sanctions)	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant</u></i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
benefit of designated persons		Regulations 2012/129, Regs. 4 and 6 and The Lebanon and Syria (Asset-Freezing) Regulations 2012/1517, Regs. 5 and 7		<p><i>financial benefit</i>" (our emphasis) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>The definition above is included in the EU Financial Services SI and therefore there is not likely to be any change to financial institutions' obligations. However, the concept of "<i>significant financial benefit</i>" differs from the EU's Guidance on what constitutes making funds or economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>" The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we could see a divergence between the EU and UK concepts of "making available".</p>
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, s. 44	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 22(1)	(a)	<p><b>Medium Impact</b></p> <p>Art. 22 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under s. 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The Syria (Sanctions) (EU Exit) Regulations	EU Guidance 8519/18	(a)	<p><b>High Impact</b></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019/792, Reg. 7			<p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "owned or controlled directly or indirectly" by another person if either of two conditions are met.</p> <p>(1) <i>...a person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p style="margin-left: 40px;">(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p style="margin-left: 40px;">(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p style="margin-left: 40px;">(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>[...]</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to the ability to appoint or remove a majority of the board:</u></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p> <p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p> <p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch all, as show in subsection (4) above, and so it is likely that "<i>having regard to all the circumstances</i>" will include the factors above. However, on the face of it, the wording of the UK SI presents a much more limited view of</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>what constitutes "control".</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Sch. 1 rules of interpretation that apply in connection with these concepts. Of significance, are the following:</p> <p>Pursuant to para. 2 of Sch. 1, persons who hold a share/right jointly are each treated as holding that share or right;</p> <p>Pursuant to para. 3 of Sch. 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see para. (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person holding rights or exercising powers in order for the control test to be met.</p> <p>Para. 4 of Sch. 1 defines a person holding "<i>more than 50% of the shares</i>" in a person to be a person holding shares comprised in the issued share capital of that person "<i>of a nominal value exceeding (in aggregate) 50% of that share capital</i>". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than "<i>50% of the proprietary</i>" rights in a person.</p> <p>Para. 9 of Sch. 1 deals with the meaning of "<i>shares or rights being held indirectly</i>". This occurs where a person has a "majority stake" in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>Also, para. 9(4) of Sch. 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors of a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paras. 10 and 11 of Sch. 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in para. 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions or in that person's interests (except for purposes of preserving or exercising security)).</p>
UK Credit or Financial Institutions: accounts and correspondent banking relationships	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 16 and 17	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 12	(a) and (c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI prohibited the opening of <u>new</u> bank accounts, establishment of <u>new</u> correspondent banking relationships or <u>new</u> joint ventures. The requirement for these to be "new" has fallen away in the UK SI (although the practical effect may be limited except in relation to the re-opening of old bank accounts).</p> <p>The UK SI also now contains a reduced list of entities to which this restriction applies. The State of Syria or its Government, public bodies, corporations and agencies and persons acting on behalf or at the direction of it (or on behalf or at the direction of Syrian domiciled financial/credit institutions or their branches/subsidiaries and credit/financial institutions controlled by such persons) are no longer included. However – as the prohibition broadly</p>

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				<p>applies to Syrian credit/financial institutions (and their branches/subsidiaries, etc.) the impact of this change is likely to be limited.</p> <p>Reg. 17 of the UK SI imposes a new restriction not reflected in the EU Financial Services SIs which prohibits the establishment of representative offices, branches or subsidiaries of Syrian credit/financial institutions and their subsidiaries/branches, etc., in the UK (or entering into an arrangement for/on behalf of such persons) or authorising the pursuit of business by such an office, branch or subsidiary if it was not operational before 19 January 2012. This restriction is new (but did derive from Art. 25(2) of the EU Regulation).</p> <p>Reg. 23 of the UK SI contains definitions of "branches", "credit or financial institutions domiciled in Syria", "subsidiary" and "UK credit and financial institution". Certain aspects of these definitions were reflected in the EU Financial Services SI, but there is an additional helpful detail (which is unlikely to have a material new impact).</p>
Insurance and Reinsurance	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 20	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 15	(c)	<p><b>Low Impact</b></p> <p>The prohibition in the UK SI now extends to insurance and reinsurance <u>services</u> – this is arguably now broader and would include (re)insurance brokering as well as services related to contracts of (re)insurance such as loss adjusting, etc.</p>
Investments in relation to crude oil and electricity products	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 21	The Export Control (Syria Sanctions) Order 2013/2012, Art. 14	(c)	<p><b>Low Impact</b></p> <p>The EU Export Control SI stipulates that, for an offence to occur in relation to the granting of loans or credit to persons engaged in the exploration, production or refining of crude oil, or the construction or installation of a new power plant for electricity production, a person must be knowingly concerned in activity <u>with the intent to evade the prohibition</u> in the regulations. The UK SI does not contain a requirement on the prosecution to establish "intent to evade". There is however a defence if the accused did not know and had no reasonable cause to suspect that the person they were dealing with was connected with Syria and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				engaged in the activities above. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 50).
Exceptions to asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 55(3)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 19(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to "<i>relevant institutions</i>" (i.e., firms with Part 4A permission under FSMA) only. Secondly, under the UK SI this exception applies to the "<i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>", as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 55(5)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 19(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on which the person was designated will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.
Exceptions to asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons	-	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 19(1)(c)	(a)	<b>Medium Impact</b>  The EU Regulation contains an exemption from the prohibition on making available funds or economic resources to or for the benefit of designated persons in respect of the addition to frozen accounts of " <i>payments due under judicial, administrative or arbitral decisions rendered in a Member State or enforceable in the Member State concerned</i> ". However, this exemption is not contained in the UK SI.
Exceptions to asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons	-	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 21	(a)	<b>Low Impact</b>  The EU Regulation contains an exemption from the prohibition on freezing of funds and economic resources belonging to, owned, held or controlled by designated entities listed in Annex IIa (i.e. the Commercial Bank of Syria) whereby " <i>for a period of two months from the date on which it was designated, [an entity listed in Annex IIa may] make a payment from frozen funds or economic resources which were received by that entity after the date on which it was designated, provided that (a) such payment is due under a trade contract; and (b) the competent authority of the relevant Member State has determined that the payment will not directly or indirectly be received by a person or entity listed in Annex II or Annex IIa</i> ".  This exemption has not been replicated in the UK SI. This is unlikely to have a material impact on financial institutions.
Exceptions to	-	EU Council	(a)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons		Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 21b		The EU Regulation contains an exemption from the prohibition on making available funds or economic resources to or for the benefit of designated persons in respect of " <i>acts or transactions carried out with respect to Syrian Arab Airlines for the sole purpose of evacuating citizens of the Union and their family members from Syria</i> ". However, this exemption is not contained in the UK SI.
Exceptions to asset freeze and prohibitions on making funds and economic resources available to or for the benefit of designated persons	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 55(6)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury	The Syria	EU Council	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Licences	(Sanctions) (EU Exit) Regulations 2019/792, Reg. 61(2)(a) and Part 2, Sch. 6	Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Arts. 16, 16a, 17, 18, 20, 20a, 21a and 21c		<p>Under the UK SI, the Treasury's rights to issue licences in respect of asset freeze restrictions are limited to the certain purposes. These are largely consistent with the EU Regulation save for the following differences:</p> <p>A licence to enable the basic needs of a designated person, or any dependent family member of such a person, to be met remains. However, (i) the types of "<i>basic needs</i>" has been split into those for an individual and those for an entity, (ii) the language appears to focus on the "<i>needs</i>" for food, etc. rather than "<i>payments for</i>" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "<i>basic needs</i>" for entities such as "<i>the payment of reasonable fees for the provision of property management services</i>" and the "<i>payment of remuneration, allowances or pensions of employees</i>". There is also a fairly broad clarification of what constitutes a "<i>dependent family member</i>" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</p> <p>A licence to enable the payment of reasonable professional fees for the provision of legal services remains. However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "<i>reasonable</i>".</p> <p>A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains. However, again, such fees and service charges are now required to be "<i>reasonable</i>".</p> <p>A licence in respect of prior obligations still remains. However, (i) the provision in the UK SI does not on its face require the funds or economic resources to be used for a <u>payment by</u> a designated person, instead it provides for "<i>the use of a designated person's frozen funds or economic resources...</i>" which may broaden the potential for licences to be granted to third parties in relation to the same. In addition, the new provision requires that "<i>the obligation arose before the date on which the person</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>became a designated person</i>". This appears potentially to be narrower than the licensing ground in the EU Regulation which also applies where the "<i>contract or agreement... was concluded by... the date on which [the person was designated]</i>". For the purposes of a licence application under this ground, the key criterion will therefore be on what date the obligation in question arose rather than the date the agreement in question concluded and therefore potentially precludes the use of arguments in relation to extension of the term of pre-existing agreements.</p> <p>The UK SI provides for licensing for humanitarian assistance activities in broad terms equivalent to the licensing purposes set out in Art. 16a(2) and (3) of the EU Regulation. However, the wording in the UK SI is broader and provides for licences to be granted by the Treasury:</p> <ul style="list-style-type: none"> <li>– "<i>to enable anything to be done in connection with the performance of any humanitarian assistance activity</i>" as opposed to "<i>necessary for the sole purpose of providing humanitarian relief in Syria or assistance to the civilian population in Syria</i>"; and</li> <li>– "<i>to enable, by the use of a designated person's frozen funds or economic resources, a payment to be made to the United Nations in connection with the performance of any activity whose purpose is consistent with the Syrian Humanitarian Response Plan</i>" (our emphasis) as opposed to "<i>provided that... the funds or economic resources are released to the UN for the purpose of delivering or facilitating the delivery of assistance in Syria in accordance with the Syrian Humanitarian Response Plan or any successor plan coordinated by the UN</i>" (our emphasis).</li> <li>– The UK SI provides for licensing for "<i>anything to be done in order that the functions of a diplomatic mission or consular post in Syria, or of an international organisation enjoying immunities in accordance with international law, may be carried out</i>". This is slightly wider than the equivalent licensing provision under the EU Regulation which</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>permits payments "to be paid into or from an account of a diplomatic or consular mission or an international organisation enjoying immunities in accordance with international law, insofar as such payments are intended to be used <u>for official purposes of the [same]</u>" (our emphasis).</p> <ul style="list-style-type: none"> <li>– In respect of the licensing provision related to education, professional training or academic research, the UK SI contains a new definition of "designated credit or financial institution" which means "(a) in the case of an undertaking, by way of business (i) operates a currency exchange office, (ii) transmits money (or a representation of monetary value) by any means, or (iii) cashes cheques that are made payable to customers, and (b) in the case of any other person, would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000 if it had its registered office (or if it does not have one, its head office) in the United Kingdom".</li> <li>– In the UK SI, unlike the EU Regulation, the licensing provision related to the Chemical Weapons Convention does not require that the payments in question be made "on behalf of the Syrian Arab Republic". This could potentially widen the scope of the licensing condition.</li> <li>– In the UK SI, there is a new licensing condition which is not contained in the EU Regulation, as follows: "to enable anything to be done to deal with an extraordinary situation". The inclusion of this provision provides for fairly wide discretionary licensing powers to the Treasury.</li> <li>– The EU Regulation contains a licensing provision for "a transfer made by or through the Central Bank of Syria of frozen funds or economic resources <u>in order to provide financial institutions within the jurisdiction of the Member States with liquidity for the financing of trade</u>" (our emphasis). In the UK SI, aside from the licensing provision applying to UK credit or financial institutions, the provision applies "to enable... the financing of trade that is not subject to a prohibition under Part 5 (Trade)".</li> </ul>

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				<p>Accordingly, there is no requirement for the transfer to be made in order to provide the financial institutions with liquidity for the financing of trade but the licensing provision now only applies where the trade is not prohibited under the trade prohibitions in the UK SI.</p> <p>– The EU Regulation contains a licensing provision for "<i>a transfer made by or through the Commercial Bank of Syria of funds or economic resources received from outside the territory of the Union... whether the transfer is related to a payment due in connection with a specific trade contract for medical supplies, food, shelter, sanitation or hygiene for civilian use</i>" (our emphasis). In the UK SI, aside from the licensing provision applying to funds or economic resources from outside the UK (note the same is also true for the licensing ground related to the transfer of funds or economic resources from outside of the UK, <u>to or through</u> the Commercial Bank of Syria), the provision applies provided that "<i>the trade contract is for the purpose of meeting the essential needs of the civilian population in Syria</i>" (our emphasis). Accordingly, the licensing ground appears to potentially be wider than that under the EU Regulation.</p> <p>This is beneficial as it provides greater scope for licensing.</p>
Treasury Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 61(2)(b) and Part 3 Sch. 6	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 25a	(a)	<p><b>Low Impact</b></p> <p>In the UK SI, the licensing ground in respect of the restrictions on opening bank accounts with a Syrian credit or financial institution or opening representative offices or establishing branches or subsidiaries of a UK credit or financial institution in Syria to enable anything to be done, for the purpose of providing assistance to the civilian population in Syria is not subject to the following condition which applies to the equivalent licensing ground in the EU Regulation:</p> <p><i>"the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>regards, inter alia: (i) the competent authority's determination under points (a) (i) and (ii); (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002; and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State..."</i></p> <p>This is unlikely to have a significant impact on financial institutions.</p>
Treasury Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 61(2)(b) and Part 3, Sch. 6	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 13a	(a)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a licensing provision with respect to the restrictions on financing Syrian persons, entities or bodies engaged in the exploration, production or refining of crude oil that applies where the competent authority has determined that it is reasonable to conclude that "<i>the activities concerned are for the purpose of providing assistance to the Syrian civilian population...</i>"</p> <p>The equivalent licensing ground in the UK SI applies not only in respect of the restrictions on investments in relation to "<i>any person connected with Syria... who is engaged in the exploration, production or refining of crude oil</i>" but also "<i>engaged in... the construction or installation of a new power plant for electricity production</i>". This is likely to significantly widen the scope of licensing under this licensing ground.</p> <p>In addition, the abovementioned licensing ground in the UK SI is not subject to the following condition which applies to the equivalent licensing ground in the EU Regulation:</p> <p><i>"the Member State concerned has consulted in advance the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces as regards, inter alia: (i) the competent authority's determination under points (a) (i) and (ii); (ii) the availability of information indicating that the activities concerned might entail funds or economic resources being made available, directly or indirectly, to or for the benefit of a</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<i>person, entity or body referred to in Article 2 of Regulation (EC) No 2580/2001 or Article 2 of Regulation (EC) No 881/2002; and the person, entity or body designated by the Syrian National Coalition for Opposition and Revolutionary Forces has given its views to the relevant Member State..."</i>
Treasury Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 64(5)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 10(3)	(c)	<b>Low Impact</b>  Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also " <i>suspend</i> " it at any time.
Treasury Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 65(1)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 10(5)	(c)	<b>Low Impact</b>  Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.  This change is unlikely to have a material impact on the obligations of financial institutions.
Information Obligations	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 69(5)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Reg. 9(3)	(c)	<b>Medium Impact</b>  The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with interest or other earnings due on the account, payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with Reg. 55(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 55(6).
Information Obligations	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 69(4)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Sch. 1, para. 1(4)	(c)	<p><b>Low Impact</b></p> <p>It is clarified in Reg. 69(4) that where a relevant firm is under a reporting obligation to the Treasury, it must state the nature and amount or quantity of any funds or economic resources held by it for the customer <u>at the time when it first had the knowledge or suspicion</u>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 71(5)(c)	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI contains a new right for the Treasury to request a person acting under a Treasury licence to provide information about "<i>any matter to which a licence relates, where that licence authorises an act that would otherwise be prohibited under Chapter 2 of Part 3 (Investments, financial services and financial markets)</i>".</p> <p>This is quite a wide power but it remains to be seen how the Treasury may use it.</p>
Information Obligations	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 71(6)	The Syria (European Union Financial Sanctions) Regulations 2012/129, Sch. 1, para. 2(4)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, the Treasury was permitted to request "<i>any person in or resident in the United Kingdom</i>" to provide relevant information, whereas under the UK SI, this has been widened to any person "<i>if the Treasury believe that the person may be able to provide the information</i>".</p>
Information	The Syria	The Syria	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Obligations	(Sanctions) (EU Exit) Regulations 2019/792, Reg. 71(7)(c)	(European Union Financial Sanctions) Regulations 2012/129, Sch. 1, para. 2(5)(c)		Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded slightly to include " <i>detecting or obtaining evidence of the commission of an offence...</i> "
Information Obligations	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 77	The Syria (European Union Financial Sanctions) Regulations 2012/129, Sch. 1, para. 5  Export Control Order 2008/3231, Art. 43	(c)	<b>Low Impact</b>  In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.  For example, information may be disclosed for any purpose stated in Reg. 4 (i.e., the purposes of the UK SI), and to " <i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i> ".
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 26	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 5(2) and The Export	(a) and (c)	<b>Low Impact</b>  The definition of "interception and monitoring services" has been amended in the UK SI. The EU Regulation contains the following definition: " <i>...telecommunication or internet monitoring or interception services- means those services that provide, in particular using equipment, technology or software as identified in Annex V, access to and delivery of a subject's incoming and outgoing telecommunications and call-associated data for the purpose of its extraction, decoding, recording, processing, analysis and storing or any other related activity.</i> "  The UK SI contains a detailed and complex definition at Reg. 26. In summary, the following

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Control (Syria Sanctions) Order 2013, Art. 7		<p>changes are made to the above definition:</p> <p>It applies only in relation to telecommunications systems.</p> <p>The UK SI is much more prescriptive in terms of the nature, object and effect of the activity (it requires the modification/interference with a telecommunication system, monitoring transmissions made through it or monitoring transmissions made by wireless telegraphy to or from apparatus that is part of the system) with the effect that the communication is made available to a person who is not the sender or intended recipient (when the transmission is sent and for so long as the communication is stored in the system).</p> <p>Therefore, the new UK definition is narrower than the EU Regulation.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 27 and 31 to 37	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, various Arts. and The Export Control (Syria Sanctions) Order 2013, various Arts.	(c)	<p><b>Medium Impact</b></p> <p>Chapter 2 of Part 5 of the UK SI imposes various restrictions on the export, the making available of goods and technology, the transfer of technology, the provision of technical assistance, the provision of financial services and funds and the provision of brokering services relating to goods and technology which are the subject of trade prohibitions (including aviation fuel and additives, goods relating to chemical and biological weapons, goods relating to crude oil and natural gas, interception and monitoring goods and internal repression goods). In each case, in addition to prohibiting the export, supply or provision of such goods/technology to or for use in Syria (and activities specified above related to such exports), these controls apply in relation to the export, supply or provision of such goods to "<i>persons connected with Syria</i>". This is not reflected in the EU Regulation. "Persons connected with Syria" include:</p> <p>(a) <i>an individual who is, or an association or combination of individuals who are, ordinarily resident in Syria.</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) <i>an individual who is, or an association or combination of individuals who are, located in Syria,</i></p> <p>(c) <i>a person, other than an individual, which is incorporated or constituted under the law of Syria, or</i></p> <p>(d) <i>a person, other than an individual, which is domiciled in Syria.</i></p> <p>The EU Regulation typically applies controls in relation to persons "in Syria" – limbs (a), (c) and (d) above are broader and will make compliance due diligence associated with these restrictions more onerous for affected entities.</p>
Trade Controls	<p>The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 27, 33 and 34</p> <p>Sanctions and Anti-Money Laundering Act 2018, s. 61</p>	<p>EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, various Arts., and related EU case-law and Guidance and The Export Control (Syria Sanctions) Order 2013, various Arts.</p>	(c)	<p><b>Low Impact</b></p> <p>The restrictions introduced by the UK SI with respect to the direct or indirect provision of financial services and funds related to the export, the supply or delivery or the making available of goods and technology which are the subject of trade prohibitions, the transfer of technology which is the subject of trade prohibitions or the provision of technical assistance related to goods which are the subject of trade prohibitions are more detailed/prescriptive. Whilst the corresponding provisions in the EU Regulation and EU Export Control SI are likely to have been interpreted and applied in a similar manner, these provisions in the UK SI contain greater granularity. For example, the UK SI now restricts the provision of financial services (which may be somewhat broader than financing/financial assistance given that financial services are non-exhaustively and broadly defined under the SAMLA as including insurance-related, banking and other financial services) as well as funds <i>in pursuance of or in connection with an arrangement whose object or effect</i> concerns one of the activities listed above in relation to goods or technology which are the subject of trade prohibitions. The italicised language is capable of broad interpretation and may be hard to screen for in all circumstances for firms providing financial services or funds that may be affected by these restrictions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				In addition, the UK SI does not include the reference to " <i>technical assistance...related to the provision, manufacture, maintenance or use of goods</i> ". Therefore this technically applies a narrower prohibition, however as the definition of " <i>technical assistance</i> " in the UK SI includes technical support relating to the repair, development, production, assembly, testing, use or maintenance of the goods or technology, this is unlikely to have a material impact (albeit there may be divergence in interpretation).
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 36(1) and (2)	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains a new prohibition on the import of arms and related materiel (i) which are consigned from Syria, or (ii) which originate in Syria.</p> <p>This prohibition does not exist under the EU Regulation and may have a high impact generally but likely a low impact on financial institutions.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 37(2)(b) and (c)	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains a new prohibition on (i) directly or indirectly acquiring military goods or technology which originate in Syria, or (ii) directly or indirectly acquiring military goods or technology which are located in Syria.</p> <p>These prohibitions do not exist under the EU Regulation but will likely have a low impact on financial institutions.</p> <p>Note that it is a defence to the abovementioned prohibitions for a person charged to show that the person did not know and had no reasonable cause to suspect that the goods or technology originated in or were located in Syria (as applicable).</p>
Trade Controls	The Syria (Sanctions) (EU	EU Council Regulation	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Exit) Regulations 2019/792, Reg. 37(2)(a)	36/2012 concerning restrictive measures in view of the situation in Syria, Art. 6(b)		<p>The EU Regulation contains a prohibition on the "<i>purchase</i>" of crude oil or petroleum products which are located in or which originated in Syria. The UK SI contains a similar prohibition but which is slightly wider: a person must not "<i>directly or indirectly acquire [crude oil and petroleum products]...which originate in Syria [or]... which are located in Syria</i>" (our emphasis).</p> <p>This is unlikely to have a significant impact on financial institutions.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 38(1)	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains a prohibition on directly or indirectly supplying or delivering military goods from a place in Syria to a third country where those goods (a) originate in Syria, or (b) are consigned from Syria.</p> <p>This prohibition does not exist under the EU Regulation but will likely have a low impact on financial institutions.</p> <p>Note that it is a defence to the abovementioned prohibition for a person charged to show that the person did not know and had no reasonable cause to suspect that the goods originated in or were consigned from Syria (as applicable).</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 38(1) and (2)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 6(c)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a prohibition on the "<i>transport</i>" of crude oil or petroleum products if they originate in, or are being "<i>exported</i>" from Syria to any other country. The UK SI contains a similar prohibition but which is slightly wider: a person must not "<i>directly or indirectly supply or deliver [crude oil and petroleum products].. from a place in Syria to a third country where those goods (a) originate in Syria, or (b) are consigned from Syria</i>" (our emphasis).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>There is also a new prohibition in the UK SI on "<i>directly or indirectly supply[ing] or deliver[ing] crude oil and petroleum products from a place in a non-UK country to a place in a different non-UK country where the crude oil or petroleum products originate in Syria</i>".</p> <p>This is unlikely to have a significant impact on financial institutions.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 39	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains a new prohibition on the transfer of military technology to persons outside the United Kingdom or to a place outside the United Kingdom, where the transfer is from a place in Syria.</p> <p>This prohibition does not exist under the EU Regulation but is likely to have a low impact on financial institutions.</p> <p>Note that it is a defence for a person charged to show that the person did not know and had no reasonable cause to suspect that the transfer was from a place in Syria.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 40(1)(a), (b) and (c)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Arts. 3a(a), 6(d) and 6(da)	(c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains prohibitions in relation to:</p> <p>(i) the provision, directly or indirectly, of "<i>financing or financial assistance relating to the goods and technology listed in the Common Military List, including financial derivatives, as well as insurance and reinsurance and brokering services relating to insurance and reinsurance for any purchase, import or transport of such items if they originate in Syria, or are being exported from Syria to any other country</i>";</p> <p>(ii) the provision, directly or indirectly, of "<i>financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to [the import of</i></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p><i>crude oil or petroleum products into the Union if they (a) originate in Syria; or (b) have been exported from Syria</i>]; and</p> <p>(iii) the provision, directly or indirectly, of "<i>financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to [the purchase of crude oil or petroleum products which are located in or which originated in Syria or the transport of crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country]</i>".</p> <p>The UK SI contains similar prohibitions but which are wider in scope, as follows:</p> <p><i>"A person must not directly or indirectly provide financial services or funds <u>in pursuance of or in connection with an arrangement whose object or effect is...</u></i></p> <p>(a) <i>the import of [(x) arms and related materiel; (y) crude oil and petroleum products] which (i) originate in Syria; or (ii) are <u>consigned from Syria</u>;</i></p> <p>(b) <i>the direct or indirect <u>acquisition</u> of [(a) crude oil and petroleum products; (b) military goods; and (c) military technology] (i) originating in Syria; or (ii) <u>located in Syria</u>;</i></p> <p>(c) <i>the direct or indirect <u>supply or delivery</u> of [(a) crude oil and petroleum products; and (b) military goods] from a place in Syria to a third country, where those goods (i) originate in Syria; or (ii) <u>are consigned from Syria</u>" (our emphasis).</i></p> <p>Given the broader application of this prohibition, this is likely to have a medium impact on financial institutions. Please also see comments made above about the use of the phrase "<i>financial services</i>".</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations	-	(b)	<b>Medium Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019/792, Reg. 40(1)(d) and (e)			<p>The UK SI contains new prohibitions on directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(i) the direct or indirect supply or delivery of crude oil and petroleum products from a place in a non-UK country to a place in a different non-UK country where the crude oil or petroleum products originate in Syria;</li> <li>(ii) the transfer of military technology to persons outside the United Kingdom or to a place outside the United Kingdom where the transfer is from a place in Syria.</li> </ul> <p>These prohibitions do not exist under the EU Regulation and are likely to have a medium impact on financial institutions as they are targeted at the provision of financial services or funds.</p> <p>The UK SI also contains a defence to the abovementioned prohibitions for a person charged to show that the person did not know and had no reasonable cause to suspect that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned above.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 41	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11	(c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a prohibition on the sale, supply, transfer or export, directly or indirectly, of "<i>new Syrian denominated banknotes and coinage, printed or minted in the Union, to the Central Bank of Syria</i>".</p> <p>The UK SI contains similar prohibitions but they are broader in scope:</p> <ul style="list-style-type: none"> <li>– "<i>The export of bank notes or coinage to, or for the benefit of, the Central Bank of Syria is prohibited</i>" (our emphasis)</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>– "A person must not directly or indirectly (a) <u>supply or deliver bank notes or coinage from a third country to, or for the benefit of, the Central Bank of Syria;</u> (b) <u>make bank notes or coinage available to, or for the benefit of, the Central Bank of Syria</u>" (our emphasis).</p> <p>Accordingly, (i) the prohibitions are no longer limited to Syrian denominated banknotes and coinage printed or minted in the Union, (ii) it is prohibited to export, supply, deliver or make available the same <u>for the benefit of</u> the Central Bank of Syria, and (iii) the term "<u>make...available</u>" is broader in scope than "<u>sell, supply, transfer</u>".</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 42	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11a	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a prohibition on (i) the sale, supply, transfer or export, directly or indirectly, of gold, precious metals and diamonds to, or (b) the purchase, import or transport of gold, precious metals and diamonds from, the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them.</p> <p>The UK SI contains similar prohibitions but they are broader in scope, namely:</p> <p>there is a prohibition on the "<u>supply or delivery</u>" (our emphasis) of gold, precious metals or diamonds "<u>from a third country</u>" (i.e., a country that is not the UK, the Isle of Man or Syria) to a Syrian regime person;</p> <p>there is a prohibition on making available gold, precious metals or diamonds to a Syrian regime person;</p> <p>there is a prohibition on the "<u>supply or deliver[er]</u>" (our emphasis) of gold, precious metals or diamonds from a Syrian regime person "<u>to a place in a non-UK country</u>" (i.e., a country that is not the UK or the Isle of Man); and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				there is a prohibition on the acquisition of gold, precious metals or diamonds from a Syrian regime person.
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 44(1) and (2)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11a	(c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains a prohibition in relation to the provision, directly or indirectly, of "<i>financing or financial assistance, related to [gold, precious metals and diamonds] to the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them</i>".</p> <p>The UK SI contains similar prohibitions but which appear to be narrower in scope, as follows:</p> <ul style="list-style-type: none"> <li>– "<i>A person must not directly or indirectly provide financial services to a Syrian regime person <u>in pursuance of or in connection with an arrangement whose object or effect is</u> (a) the export of gold, precious metals or diamonds, (b) the import of gold, precious metals or diamonds, (c) the direct or indirect supply of gold, precious metals or diamonds, or (d) directly or indirectly making gold, precious metals or diamonds available to a person</i>" (our emphasis)</li> <li>– "<i>A person must not directly or indirectly make funds available to a Syrian regime person in pursuance of or in connection with an arrangement [mentioned in the bullet point above]</i>".</li> </ul> <p>Given the narrower application of this prohibition, this is likely to have a medium impact on financial institutions. Please also see comments made above about the use of the phrase "<i>financial services</i>".</p>
Trade Controls	The Syria (Sanctions) (EU	-	(b)	<b>Medium Impact</b>

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	Exit) Regulations 2019/792, Reg. 44(3)			<p>The UK SI contains a new prohibition on directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the export of gold, precious metals or diamonds to a Syrian regime person,</li> <li>(b) the import of gold, precious metals or diamonds consigned from a Syrian regime person,</li> <li>(c) the direct or indirect supply or delivery of gold, precious metals or diamonds to or from a Syrian regime person, or</li> <li>(d) directly or indirectly making gold, precious metals or diamonds available to a Syrian regime person.</li> </ul> <p>These prohibitions do not exist under the EU Regulation and are likely to have a medium impact on financial institutions as they are targeted at the provision of financial services or funds.</p> <p>The UK SI also contains a defence to the abovementioned prohibition for a person charged to show that the person did not know and had no reasonable cause to suspect that the financial services or funds were provided in pursuance of or in connection with an arrangement mentioned above.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 45(1)	EU Council Regulation 36/2012 concerning restrictive measures in view of the	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a prohibition in relation to the provision, directly or indirectly, of "<i>brokering services... related to [gold, precious metals and diamonds] to the Government of Syria, its public bodies, corporations and agencies, the Central Bank of Syria and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them</i>".</p>

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		situation in Syria, Art. 11a(c)		<p>The UK SI contains a similar prohibition but which appears to be narrower in scope, as follows: "<u>A person must not directly or indirectly provide brokering services to a Syrian regime person in relation to an arrangement ("arrangement A") whose object of effect is:</u></p> <ul style="list-style-type: none"> <li>(a) <i>the direct or indirect supply or delivery of gold, precious metals or diamonds from a non-UK country to a different non-UK country,</i></li> <li>(b) <i>directly or indirectly making gold, precious metals or diamonds available, in a non-UK country for supply or delivery to a different non-UK country,</i></li> <li>(c) <i>the direct or indirect acquisition, in a non-UK country, of gold, precious metals, or diamonds for supply or delivery to a different non-UK country,</i></li> <li>(d) <i>the direct or indirect procurement, from a non-UK country, of technical assistance relating to gold, precious metals or diamonds,</i></li> <li>(e) <i>the direct or indirect procurement of financial services, 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 44(1), or</i></li> <li>(f) <i>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 44(1)".</i></li> </ul> <p>However, the narrower scope of this prohibition is likely to have a low impact on financial institutions.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg.	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains a new prohibition on directly or indirectly providing brokering services in relation to an arrangement whose object or effect is:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	45(2)			<p>(a) the direct or indirect supply or delivery of gold, precious metals or diamonds from a third country (i.e., a country that is not the UK, Isle of Man or Syria) to a Syrian regime person,</p> <p>(b) the direct or indirect supply or delivery of gold, precious metals or diamonds from a Syrian regime person to a place in a third country,</p> <p>(c) directly or indirectly making gold, precious metals or diamonds available, in a third country, for direct or indirect supply or delivery to a Syrian regime person, or</p> <p>(d) the direct or indirect acquisition, in a third country, of gold, precious metals or diamonds from a Syrian regime person.</p> <p>This prohibition does not exist under the EU Regulation but is likely to have a low impact on financial institutions.</p> <p>The UK SI also contains a defence to the abovementioned prohibition for a person charged to show that the person did not know and had no reasonable cause to suspect that the brokering services were provided in relation to an arrangement mentioned above.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 46(2), (3) and (5)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11b(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a prohibition on the sale, supply, transfer or export, directly or indirectly, of "<i>luxury goods... to Syria</i>".</p> <p>The UK SI contains a similar prohibition but it is broader in scope:</p> <p>(1) "<i>The export of luxury goods to Syria is prohibited.</i>"</p> <p>(2) "<i>A person must not directly or indirectly supply or deliver luxury goods from a third country to a place in Syria.</i>"</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(3) <i>A person must not directly or indirectly <u>make luxury goods available to a person connected with Syria</u></i> (our emphasis).</p> <p>Accordingly, (i) the prohibition in relation to supply only applies from a third country (i.e., a country that is not the UK, the Isle of Man or Syria), (ii) the term "<i>make...available</i>" is broader in scope than "<i>sell, supply, transfer</i>", and (iii) the prohibition on making luxury goods available applies to a "<i>person connected with</i>" Syria.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 47(1) and (2)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 12(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains a prohibition on the sale, supply, transfer or export, directly or indirectly, of "<i>equipment or technology listed in Annex VII to be used in the construction or installation in Syria of new power plants for electricity production</i>".</p> <p>The UK SI contains a similar prohibition but it is broader in scope in the following way: "<i>A person must not directly or indirectly (a) <u>supply or deliver goods relating to electricity production from a third country to a place in Syria</u>; (b) <u>make goods relating to electricity production available for use in Syria</u></i>" (our emphasis).</p> <p>Accordingly, (i) the prohibition in relation to supply only applies from a third country (i.e., a country that is not the UK, the Isle of Man or Syria), and (ii) the term "<i>make...available</i>" is broader in scope than "<i>sell, supply, transfer</i>".</p> <p>Please also see comments made above about the use of the phrase "<i>financial services</i>" which apply to Reg. 47.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg.	EU Council Regulation 36/2012 concerning	(c)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI sets out the exception relating to insurance and reinsurance services with respect to the provision of compulsory or third party insurance but this applies only in respect of "<i>an</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	56(1)	restrictive measures in view of the situation in Syria, Art. 26(2)		<p><i>individual who is a national of Syria or... a body incorporated or constituted under the law of Syria which is located in the United Kingdom</i>". Previously, under the EU Regulation, the same exception applied more widely to:</p> <ul style="list-style-type: none"> <li>(i) the State of Syria or any public authority thereof;</li> <li>(ii) any natural person in, or resident in, Syria;</li> <li>(iii) any legal person, entity or body having its registered office in Syria;</li> <li>(iv) any legal person, entity or body, inside or outside Syria, owned or controlled directly or indirectly by one or more of the above-mentioned persons or bodies,</li> </ul> <p>based in the European Union.</p> <p>This change may have a medium impact on (re)insurers and brokers with respect to their due diligence procedures.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 56(2)(a)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 26(3)	(c)	<p><b>Low Impact</b></p> <p>The previous exception under the EU Regulation to the prohibition on provision of (re)insurance to natural or legal persons, entities or bodies when acting on behalf or at the direction of the State of Syria, its Government, its public bodies, corporations or agencies under the EU Regulation related to individuals "<i>acting in their private capacity</i>" has been narrowed in the UK SI. The new exception states as follows: "<i>The prohibition... is not contravened by (a) the provision of insurance or reinsurance services to an individual acting on behalf of or at the direction of the Syrian regime, provided that the insurance or reinsurance is for that individual's personal use</i>".</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations	EU Council Regulation 36/2012	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains an exemption from the prohibitions on purchasing crude oil or</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019/792, Reg. 57(1)	concerning restrictive measures in view of the situation in Syria, Arts. 6b and 16b		<p>petroleum products which are located or which originate in Syria or transporting crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country (or participating, knowingly and intentionally, in activities whose object or effect is to circumvent the same). The exemption permits the "<i>purchase or transport in Syria of petroleum products or the related provision of financing or financial assistance</i>" by a diplomatic or consular mission, where such products are purchased or transported for the official purposes of the mission.</p> <p>The equivalent exemption in the UK SI only permits the <u>making available of funds or economic resources</u> from the account of a diplomatic mission or consular post for the specified purposes. This, in particular, appears to narrow the activities to which the exemption applies.</p> <p>This is likely to have a limited impact on financial institutions.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 57(2) and (5)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Arts. 6a and 16a(1)	(a) and (c)	<p><b>Low Impact</b></p> <p>The EU Regulation contains an exemption from the prohibitions on purchasing crude oil or petroleum products which are located in or which originate in Syria or transporting crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country (or participating, knowingly and intentionally, in activities whose object or effect is to circumvent the same). The exemption permits the "<i>purchase or transport in Syria of petroleum products or... the related provision of financing or financial assistance</i>" by public bodies of legal persons which receive public funding from the EU or Member States to provide humanitarian relief or assistance to the civilian population of Syria, provided that such products are purchased or transported for the sole purposes of providing humanitarian relief in Syria or assistance to the civilian population in Syria.</p> <p>The equivalent exemption in the UK SI only permits the <u>making available of funds or economic resources</u> by a "<i>UK funded person</i>" (i.e., any person that receives funding from the UK Government for the purpose of providing a humanitarian assistance activity in Syria) for the specified purposes. This, in particular, appears to narrow the activities to which the</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>exemption applies.</p> <p>There is also a requirement under the UK SI for persons that make funds or economic resources available in accordance with the above exemption to notify the Secretary of State by no later than the end of the calendar year in which the funds or economic resources are made available.</p> <p>This is likely to have a limited impact on financial institutions.</p> <p>In addition, under the EU Regulation there is also a wider exemption from the prohibitions on purchasing crude oil or petroleum products which are located or which originate in Syria or transporting crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country (or participating, knowingly and intentionally, in activities whose object or effect is to circumvent the same) which provides that a competent authority may authorise "<i>the purchase and transport in Syria of petroleum products of the provision of related financing or financial assistance, under the general and specific terms and conditions it deems appropriate provided that such purchase and transport (a) are for the sole purpose of providing humanitarian relief in Syria or assistance to the civilian population in Syria; and (b) do not breach any of the prohibitions laid down in this Regulation</i>". There is no equivalent licensing ground under the UK SI.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Regs. 57(4) and 58(1)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 7a(3) and (5)	(a)	<p><b>Low Impact</b></p> <p>The exemptions in the EU Regulation to the prohibitions relating to jet fuel and fuel additives for "<i>jet fuel and fuel additives... exclusively used by non-Syrian civilian aircraft landing in Syria, provided that they are intended and used solely for the continuation of the flight operation of the aircraft into which they were loaded</i>" is carried across into the UK SI as follows:</p> <p><i>"This paragraph applies where aviation fuel or aviation fuel additives are exclusively for use by non-Syrian aircraft landing in Syria for the purpose of the continuation of the flight operation of that aircraft"</i>.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>Accordingly, the exemption appears to no longer only apply to <u>civilian</u> aircraft.</p> <p>There is also a new exemption to the prohibitions relating to petroleum products as follows:</p> <p><i>"The prohibition... is not contravened where a person acquires kerosene jet fuel, which is located in Syria, intending that it be used exclusively for the purpose of the continuation of the flight operation of the aircraft into which the kerosene jet fuel is to be loaded".</i></p> <p>However, the other exemptions in the EU Regulation to the prohibitions relating to jet fuel and fuel additives are not included in the UK SI, being:</p> <p><i>"jet fuel and fuel additives... exclusively used by a designated Syrian air carrier... carrying out evacuations from Syria in accordance with Article 16(h)";</i></p> <p><i>"jet fuel and fuel additives... exclusively used by a non-designated Syrian air carrier carrying out evacuations from or within Syria".</i></p> <p>In addition, the licensing provision in the EU Regulation for the <i>"sale, supply, transfer or export of jet fuel or fuel additives and the provision of financing and financial assistance... and brokering services related to the sale, supply, transfer or export of jet fuel and fuel additives... to any person, entity or body in Syria, or for use in Syria under such conditions as they deem appropriate, having determined that the jet fuel and fuel additives are required by the United Nations, or bodies acting on its behalf, for humanitarian purposes..."</i> is not replicated in the UK SI. It is not clear why this has not been replicated.</p> <p>The impact of these changes on financial institutions is likely to be low.</p>
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations	EU Council Regulation 36/2012	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation permits competent authorities to grant a licence from the prohibitions on</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019/792, Reg. 58(4)	concerning restrictive measures in view of the situation in Syria, Arts. 2a(3), 3(5) and 3b		<p>(i) the sale, supply, transfer or export of, (ii) the provision of technical assistance or brokering services relating to, (iii) the provision of financing or financial assistance related to, equipment, goods or technology which might be used for internal repression or for the manufacture and maintenance of products which might be used for internal repression, where the same was "<i>undertaken in accordance with paragraph 10 of UN Security Council Resolution 2118(2013) and relevant decisions of the Executive Council of the Organisation for the Prohibition of Chemical Weapons (OPCW), consistent with the objective of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention) and after consultation with the OPCW</i>".</p> <p>Under the EU Regulation there is also a similar exemption from the prohibitions on the provisions of financing or financial assistance relating to goods and technology listed in the Common Military List for any purchase, import or transport of such items if they originate in Syria or are being exported from Syria to any other country where the same is "<i>undertaken in accordance with paragraph 10 of UN Security Council Resolution 2118(2013) and relevant decisions of the Executive Council of the OPCW, consistent with the objective of the Chemical Weapons Convention</i>".</p> <p>The licensing provisions noted above are not included in the UK SI. However, a similar exemption to the one above is, albeit it applies to exempt anything done in accordance with para. 10 of resolution 2118 to ensure the elimination of the chemical weapons programme of the Syrian regime from the prohibitions relating to the following:</p> <ul style="list-style-type: none"> <li>import of arms and related materiel;</li> <li>transport of military goods;</li> <li>transfer of military technology;</li> <li>provision of financial services and funds relating to the import of arms and related materiel;</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				provision of financial services and funds relating to the transport of military goods; and provision of financial services and funds relating to the transfer of military technology.
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 60	-	(b)	<b>Low Impact</b> Reg. 60 contains a new exception for acts done for the purposes of national security or prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.  This change is unlikely to have a material impact on the obligations of financial institutions.
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 60	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11c	(c)	<b>Low Impact</b> The restrictions contained in the EU Regulation with respect to Syrian cultural, property goods and goods of archaeological, historical, cultural, rare scientific or religious importance are carried across under the EU Export Control SI rather than the UK SI. The purpose of this is unclear.
Trade Controls	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Sch. 2, 3, 4 and 5	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in	(c)	<b>Low Impact</b> Sch. 2, 3, 4 and 5 to the UK SI contain the lists of goods, software and technology subject to certain restrictions under the UK SI. These largely mirror Annexes Ia, IV, V, Va, Vb, VII, VIII, IX and X of the EU Regulation but there are noticeable differences both in terms of interpretation and also the specified goods, software and technology themselves. For example, Sch. 5 of the UK SI contains a list of internal repression goods and technology which is not included in the EU Regulation.

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Syria, Annex Ia, IV, V, Va, Vb, VII, VIII, IX and X		This is unlikely to have a significant impact on financial institutions save potentially those that engage in, for example, trade finance activities or export credit activities related to Syria.
Trade Control Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 64(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<b>Low Impact</b> Reg. 64(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be " <i>limited so as to expire on a specified date unless renewed</i> ". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.
Trade Control Licences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 66(2)	The Export Control Order 2008/3231, Art. 38(1)-(2)	(c)	<b>Low Impact</b> Pursuant to Reg. 66(2) it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that under Reg. 66(2) there is no carve-out for modification of a licence after completion of the act authorised, which results in a stricter offence.
Defences	The Syria (Sanctions) (EU Exit) Regulations 2019/792, Reg. 50(2)	-	(b)	<b>Medium Impact</b> There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.  This will make it easier for financial institutions to rely upon defences.
Satisfaction of claims	-	EU Council Regulation 36/2012 concerning	(a)	<b>Low Impact</b> The EU Regulation contains a restriction on the satisfaction of claims made by a designated person, any other Syrian person, entity or body, or any person, entity or body acting through

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		restrictive measures in view of the situation in Syria, Art. 27		<p>or on behalf of the same in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under the EU Regulation.</p> <p>This is not carried forward into the UK SI but is unlikely to have a material impact on financial institutions.</p>

# The Syria (United Nations Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233 (the "UK Cultural Property SI")</p> <p>Sanctions and Anti-Money Laundering Act 2018 (the "SAML")</p> <p>EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No 442/2011 (the "EU Regulation")</p> <p>The Export Control (Syria Sanctions) Order 2013 (the "EU Export Control SI")</p>
Trade Controls	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 5(2)	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 11c(1)	(c)	<p><b>Low Impact</b></p> <p>In the UK Cultural Property SI, illegal removal is defined as removal from Syria in contravention of the law of any country or territory applicable to the removal (in force at the time of removal). The laws of Syria and any part of the United Kingdom are explicitly listed as examples.</p> <p>The EU Regulation required reasonable grounds to suspect that the removal was without the consent of the legitimate owner or in breach of Syrian law or international law.</p> <p>Consequently, the UK Cultural Property SI provides a broader prohibition in terms of relevant laws that might be breached to constitute illegal removal, but excludes removal without the consent of the legitimate owner from the remit of the prohibitions. This change is unlikely to have a material impact on financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Regs. 6 and 11	<p>EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Arts. 1 and 11c(1)</p> <p>The Export Control (Syria Sanctions) Order 2013, Art. 12A</p>	(b)	<p><b>Low Impact</b></p> <p>The UK Cultural Property SI contains a prohibition on directly or indirectly providing brokering services in relation to arrangements with the object or effect of</p> <p>supplying or delivering illegally removed Syrian cultural property from a third country to any other third country;</p> <p>making available illegally removed Syrian cultural property to a person in a third country; or</p> <p>providing financial services or funds in a non-UK country in line with Regulation 10(1).</p> <p>The EU Regulation contained a prohibition on providing brokering services relating to the import, export or transfer of Syrian cultural property. Arrangements which have the object or effect of “making available” of property will capture a broader range of activities than “imports, exports or transfers”.</p> <p>Brokering services are also defined more broadly in the UK Cultural Property SI as being “<i>any service</i>” for the selection or introduction of persons as parties to an arrangement, negotiation of an arrangement, facilitation of entry into an arrangement, and provision of assistance to promote or facilitate an arrangement. In the EU Regulation brokering services are limited to (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods from a third country to another third country, and (ii) the sale or purchase of goods in a third country for transfer to another third country. As a result, a broader range of activities which effectively enable third parties to use or benefit from illegally removed Syrian cultural property will be prohibited.</p> <p>Lastly, the EU Export Control SI stipulates that, for an offence to occur in relation to an activity, other than the import or export of goods, prohibited by Art. 11c of the EU Regulation, a person must be knowingly concerned in the activity with the “<i>intent to evade</i>” the prohibition. The UK Cultural Property SI does not contain a requirement on the prosecution to establish “<i>intent to evade</i>”. There is however a defence if the accused did not know and</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				had no reasonable cause to suspect that the brokering services offered were in pursuance of an arrangement mentioned in Reg. 11(1). If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 14).
Trade Controls	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 9	-	(b)	<p><b>Low Impact</b></p> <p>The UK Cultural Property SI contains new prohibitions on directly or indirectly making available illegally removed Syrian cultural property to another person and acquiring illegally removed Syrian property from another person.</p> <p>These prohibitions did not exist under the EU Regulation, and are therefore broader in effect/application, but will likely have a low impact on financial institutions since they are unlikely to engage in this type of activity or with respect to these types of goods.</p> <p>Note that it is a defence to the abovementioned prohibitions for a person charged to show that they did not know and had no reasonable cause to suspect that the goods were illegally removed Syrian cultural property.</p>
Trade Controls	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 10	EU Council Regulation 36/2012 concerning restrictive measures in view of the situation in Syria, Art. 1	(b)	<p><b>Medium Impact</b></p> <p>The UK Cultural Property SI contains a new prohibition on directly or indirectly providing financial services or funds to another person in pursuance of/in connection with an arrangement with the object or effect of exporting, importing, supplying, delivering, or making available illegally removed Syrian cultural property.</p> <p>This type of prohibition, applicable to activities in the financial services sector, did not exist under the EU Regulation and will likely have a medium impact on financial institutions. Although rare, financial institutions providing financial services in connection with museums, collections or artefacts of Syrian origin will need to perform due diligence on the artefacts at</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Sanctions and Anti-Money Laundering Act 2018, s. 60			<p>issue to ensure compliance with these restrictions..</p> <p>In addition, funds are defined more expansively in the SAMLA than in the EU Regulation as the former contains a general catch-all ("<i>any other instrument of export financing</i>") which was not present in the latter.</p> <p>Note that it is a defence to the abovementioned prohibition for a person charged to show that they did not know and had no reasonable cause to suspect that the financial services or funds were provided in pursuance of/in connection with an arrangement covered by the prohibition.</p>
Trade Controls	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 12	-	(b)	<p><b>Low Impact</b></p> <p>The UK Cultural Property SI requires any person holding or controlling illegally removed Syrian cultural property to secure its transfer to a constable.</p> <p>This requirement did not exist under the EU Regulation, but will likely have a low impact on financial institutions.</p> <p>Note that there is an exception to the abovementioned requirement where a person charged shows that they did not know and had no reasonable cause to suspect that the goods were illegally removed Syrian cultural property.</p>
Trade Controls	-	EU Council Regulation 36/2012 concerning restrictive	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contained a prohibition on the transfer of Syrian cultural property, which was not carried forward into the UK Cultural Property SI. This omission is, however, unlikely to have a significant impact on financial institutions and is likely to be captured in the</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		measures in view of the situation in Syria, Art. 11c(1)		“making available” prohibition.
Exceptions and Defences	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 16	-	(a)	<p><b>Low Impact</b></p> <p>Reg. 16 contains a new exception for acts done for the purposes of national security or prevention or detection of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions and Defences	The Syria (United Nations Sanctions) (Cultural Property) (EU Exit) Regulations 2020/1233, Reg. 14	-	(a)	<p><b>Low Impact</b></p> <p>There is a new reverse burden of proof where a defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond reasonable doubt, that it is not.</p> <p>This will make it easier for financial institutions to rely upon defences and the impact is likely to be low considering the subject matter of the UK Cultural Property SI.</p>
Exceptions and Defences	Sanctions and Anti-Money Laundering Act 2018, s. 44	-	(a)	<p><b>Low Impact</b></p> <p>SAMLA provides a new exception for acts done in the reasonable belief that they are in compliance with the regulations. This exception did not exist under the EU Regulation, but is unlikely to have a significant impact on financial institutions.</p>

# The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
				<p>This review covers the new UK SI</p> <p><a href="#">The Turkey (Sanctions) (Unauthorised Drilling Activities in the Eastern Mediterranean) (Overseas Territories) Order 2020</a></p> <p>Which revokes the following (s.38):</p> <p><a href="#">The Turkey (Asset-Freezing) Regulations 2019</a></p> <p><a href="#">Council Regulation (EU) 2019/1890 of 11 November 2019 concerning restrictive measures in view of Turkey's unauthorised drilling activities in the Eastern Mediterranean</a></p>
Power to designate	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 (the "2020 UK SI") – Reg 5 to 6, 8 to 9	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out specific designation criteria at Regulation 6 which the Secretary of State must adhere to. These are new requirements as the Secretary of State did not have the power to designate under the The Turkey (Asset-Freezing) Regulations 2019 SI as designations were determined by the EU.</p> <p>Although this is unlikely to have a material impact on financial institutions, these institutions should monitor any new designations under the 2020 SI.</p>

Ownership and control provisions	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 7	-	(c)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P -</i></p> <p style="padding-left: 40px;">(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p style="padding-left: 40px;">(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p style="padding-left: 40px;">(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p> <p>(3) <i>Schedule 1 contains provisions applying for the purpose of interpreting paragraph (2).</i></p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>This new provision extends and replaces existing guidance previously provided by the EU. Schedule 1 of the 2020 UK SI sets out the rules of interpretation for determining ownership and control.</p> <p>The rules of interpretation may have an impact on financial institutions in relation to the due diligence and investigational efforts to determine whether the conditions in Regulation 7 are met.</p>
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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Meaning of “designated person”.	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 10	-	(c)	<p><b>Low Impact</b></p> <p>A “designated person” means a person who is designated under regulation 5 (power to designate persons) for the purposes of regulations 11 to 15 (asset-freeze etc.).</p> <p>Although this is unlikely to have an impact on financial institutions, these institutions should still monitor any new designations under the 2020 UK SI.</p>
Asset-freeze in relation to designated persons	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 11(5)	The Turkey (Asset-Freezing) Regulations 2019. – Reg 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with economic resources owned, held or controlled by a designated person, the 2019 Turkey SI previously defined the phrase “<i>deal with</i>” as the “<i>exchange, or use in exchange, for funds, goods or services</i>”.</p> <p>This definition is extended in the 2020 UK SI to add “(whether by pledging them as security or otherwise)”.</p> <p>Although it is unlikely to have an impact on financial institutions, it will be important to monitor the publication of any guidance provided by the UK government on this additional wording.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Asset-freeze in relation to designated persons	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 11(6)	The Turkey (Asset-Freezing) Regulations 2019 Reg 3	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI includes a new provision stating that funds or economic resources that are "<i>owned, held or controlled</i>" by a person includes a reference to: (i) funds or economic resources in which the person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person and regardless of whether any person holds an interest in the funds or economic resources, or (ii) any tangible property (other than real property), or bearer security that is comprised in funds or economic resources and is in the possession of the person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset-freeze in relation to designated persons	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 11(7)	The Turkey (Asset-Freezing) Regulations 2019 – Reg 3	(b)	<p><b>High Impact</b></p> <p>The 2020 UK SI provides that funds or economic resources are considered "<i>owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>".</p> <p>This extends the scope of the wording in the Turkey 2019 SI by adding an express prohibition on dealing with funds and economic resources of entities owned or controlled by a designated person.</p> <p>This change appears to reflect existing OFSI guidance on ownership and control (July 2020).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Making funds and economic resources available to designated persons	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 12 and 14	The Turkey (Asset-Freezing) Regulations 2019 – Reg 4 and 6	(c)	<p><b>High Impact</b></p> <p>The Turkey 2019 SI states that a person (“P”) must not make funds/economic resources available directly or indirectly to a designated person if P knows, or has reasonable cause to suspect, that P is making such funds/economic resources so available.</p> <p>The 2020 UK SI explicitly states making funds/ economic resources available indirectly to a designated person includes making them available to a person who is owned or controlled directly or indirectly by the designated person.</p> <p>The 2020 UK SI appears to be more restrictive than existing EU guidance which provides that making available funds and economic resources to a non-designated person owned or controlled by a designated person, is considered to be making available these funds and economic resources to the designated person, albeit this could be rebutted on the facts.<sup>24</sup> The 2020 UK SI does not include a rebuttable presumption.</p>

<sup>24</sup> <http://data.consilium.europa.eu/doc/document/ST-15530-2016-INIT/en/pdf>, para. 66

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Exceptions	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 18	-	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the 2020 UK SI sets out the following new exception:</p> <p><i>(1) The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person (“P”) transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest –</i></p> <p><i>(a) is held by P, and</i></p> <p><i>(b) is not held jointly with the designated person.</i></p> <p><i>(2) In paragraph (1) “independent person” means a person who –</i></p> <p><i>(c) is not the designated person, and</i></p> <p><i>(d) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Exceptions	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 18	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p><i>(6) The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person (“P”) by a transfer of funds from account A to account B, where –</i></p> <p><i>(a) account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000(16),</i></p> <p><i>(b) account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000(17), and</i></p> <p><i>(c) accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Finance: exception for authorised conduct in a relevant country	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 19	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI adds an exception for authorised conduct in a relevant country. It states that where a person’s conduct in a relevant country would, contravene a prohibition in regulations 11 to 15 (asset freeze etc) (“the relevant prohibition”), the relevant prohibition is not contravened if the conduct is authorised by a licence or other authorisation issued under the law of the relevant country, and for the purpose of disapplying a prohibition in that jurisdiction which corresponds to the relevant prohibition.</p> <p>A “relevant country” means: any of the Channel Island, the Isle of Man, or any British overseas territory.</p> <p>Nothing in this regulation impacts the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have a significant impact for financial institutions.</p>
National security	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 –Reg. 20	-	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI contains a new exception which provides that prohibitions within the SI do not apply where it is in the interests of national security or to prevent or detect a serious crime in the UK or elsewhere. However, this does not affect the application of a prohibition in a case where it would be incompatible with a UN obligation for the prohibition not to apply.</p> <p>This is unlikely to have an impact on financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Treasury licences	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 –Reg. 21(1) – (2)	The Turkey (Asset-Freezing) Regulations 2019 Reg 9	(b)	<p><b>Low Impact</b></p> <p>The 2020 UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular designated person where the Treasury considers a licence appropriate for a purpose as set out in Schedule 2 of the 2020 UK SI. Similar restrictions did not apply expressly under the Egypt, Tunisia and Ukraine SIs.</p> <p>Although it is unlikely to have a material impact on financial institutions, such institutions should familiarise themselves with the circumstances in which licences can be granted and ensure the terms of any licence are complied with when a licence is granted.</p>
Treasury licences	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 –Reg. 21(3) – (6)	The Turkey (Asset-Freezing) Regulations 2019 Reg 9	(b)	<p><b>Low Impact</b></p> <p>Under the 2019 Turkey SI, the Treasury may vary or revoke a licence at any time. The new 2020 UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p> <p>This is unlikely to have a material impact on financial institutions although the ability of the Treasury to issue general licence should be monitored.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Licensing offences	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 –Reg. 22	The Turkey (Asset-Freezing) Regulations 2019  Reg 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the 2019 Turkey SI, a person commits an offence if they “<i>knowingly or recklessly provide information that is false in a material respect or provides or produces a document that is not what it purports to be</i>”. The 2020 UK SI adds that this is applicable in the event that the licence is sought “<i>whether for P or anyone else</i>”.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information / reporting obligations	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 24	The Turkey (Asset-Freezing) Regulations 2019  Reg 15 and Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2019 Turkey SI imposed reporting obligations on “relevant institutions” or “relevant business or profession”. In the 2020 UK SI this has been replaced with “<i>relevant firm</i>”. Regulation 25 in the 2020 UK SI clearly defines what a “<i>relevant firm</i>” is, extending the scope of the entities concerned by the information obligations.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Information / reporting obligations	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 24(4)	The Turkey (Asset-Freezing) Regulations 2019  Schedule	(c)	<p><b>Low Impact</b></p> <p>The 2019 Turkey SI required a relevant institution which had a customer who was a designated person to inform the Treasury of the “nature and amount or quantity of any funds or economic resources held by it for the customer.” The 2020 UK SI adds “<i>at the time when it first had the knowledge or suspicion</i>” to the end of the existing obligation, thereby adding an additional element to the reporting obligation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Credits to frozen accounts	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 18	The Turkey (Asset-Freezing) Regulations 2019  Reg 8 and Schedule	(b) and (c)	<p><b>Medium Impact</b></p> <p>The 2019 Turkey SI and the 2020 UK SI contain exceptions relating to certain credits to frozen accounts. However, the following should be noted:</p> <ul style="list-style-type: none"> <li>- in the 2019 Turkey SI the exceptions applied to a “person” and a “relevant institution”.</li> <li>- the 2020 UK SI applies the exception relating to the credit of interest or other earnings due on an account to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</li> </ul> <p>Financial institutions should ensure they understand the amended provisions to ensure any credits made to frozen accounts are in accordance with the new and amended exceptions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation?	Impact
Disclosure of information	The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020 – Reg 29	The Turkey (Asset-Freezing) Regulations 2019  Schedule	(b)	<p><b>Low Impact</b></p> <p>The 2019 Turkey SI and the 2020 UK SI set out provisions regarding the disclosure of information obtained pursuant to the relevant regulations. However, there are some key differences in the new 2020 UK SI, including:</p> <ul style="list-style-type: none"> <li>- The 2019 Turkey SI authorised the disclosure of information by the Treasury, whereas the 2020 UK SI authorises the disclosure of information by the Treasury <i>or</i> the Secretary of State;</li> <li>- The 2019 Turkey SI and the 2020 UK SI permit disclosure to “any other regulatory body”, however, the 2019 Turkey SI stated “including those of other Member States”, whereas the 2020 UK SI is broader and states “whether or not in the United Kingdom”;</li> <li>- The Turkey SI and the 2020 UK SI permit disclosure to other Governments, however, the Turkey SIs stated “the Government of a Member State” whereas the 2020 UK SI is broader and states “the Government of any country”;</li> <li>- The Turkey 2019 SI and the 2020 UK SI permits disclosure to the Council of the European Union and the European Commission, however the 2020 UK SI also includes the European External Action Service; and</li> <li>- The 2020 UK SI also has a new category for disclosure which states that disclosure can be made to “<i>any other person where the Secretary of State or the Treasury (as the case may be) consider that it is appropriate to disclose the information</i>”.</li> </ul>
Consent to prosecute	-	The Turkey (Asset-Freezing) Regulations 2019  Reg 14	(a)	<p><b>Low Impact</b></p> <p>The Turkey SI stated that proceedings for offences under the regulations (other than for summary offences) could only be instituted with the consent of the Attorney General (in England and Wales) and with the consent of the Advocate General for Northern Ireland or the Director of Public Prosecutions for Northern Ireland (depending on the circumstances). This requirement does not appear to be present in the new 2020 UK SI.</p>

# The Venezuela (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Definitions	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 33(7) and (8)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 2(1) and (2)	(c) (a)	<p><b>Low Impact</b></p> <p>The Venezuela (Sanctions) (EU Exit) Regulations 2019 (the "UK SI") amended the definition of "relevant institution contained in the Venezuela (European Union Financial Sanctions) Regulations 2017 (the "EU Financial Services SI") by removing the references to "an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights) which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits; or (c) an undertaking which by way of business operates a currency exchange office, transmits money (or any representations of monetary value) by any means or cashes cheques which are made payable to customers.</p> <p>The entities listed under (c) have been moved to the definition of "relevant firm" for the purpose of notification obligations under Reg. 41.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, it limits the scope of the entities that can rely on the exemptions from the relevant prohibitions (i.e. payment institutions and e-money issuers cannot rely on some of the exemptions in Reg. 33).</p>
Definitions	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 3	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 1	(c) (a)	<p><b>Low Impact</b></p> <p>The UK SI introduces a broader definition of "United Kingdom person" referring to section 21 of the Sanctions and Anti-Money Laundering Act 2018, which defined UK person as "an individual who is a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen, a person who under the British Nationality Act 1981 is a British subject, or a British protected person within the meaning of that Act".</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>The EU Financial Services SI used the term "UK national" which refers to <i>a British citizen, a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or a British subject under Part 4 of the British Nationality Act 1981 (British subjects) with the right of abode in the United Kingdom.</i></p> <p>The UK SI also specifies that any person may contravene a relevant prohibition by conduct in the territorial sea. Such statement was not contained in the previous legislation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Definitions	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 5, 6, 8 and 10	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 2(1)	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains an amended definition of "designated person".</p> <p>The EU Financial Services SI previously referred to the specified list contained in Annexes IV and V of the Council Regulation (EU) 2017/2063 of 13th November 2017 concerning restrictive measures in view of the situation in Venezuela ("<b>EU Regulation on Venezuela</b>"). The UK SI does not refer to any specified list and instead refers to regulation 5 that allows the Secretary of State to designate persons by name following prescribed designation criteria under regulation 6. In addition, regulation 8 contains requirements around notification of any designated persons and publication of its decision on designation.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, financial institutions will need to ensure that they monitor announcements in relation to new designated persons and promptly reflect any required changes to the list of designated persons held at the financial institution.</p>
Definitions	Venezuela (Sanctions) (EU Exit) Regulations	The Council Regulation (EU) 2017/2063 of	(c)	<p>The UK SI has introduced an amended list of prohibited goods and technology and new definitions of "<i>restricted goods</i>" and "<i>restricted technology</i>". It appears that the new definitions in the UK SI are broader than those covered under the EU Regulation on</p>

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	2019, Reg. 19	13th November 2017, Annex I and Annex II		Venezuela.
Confidentiality	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 9 and 51(3)	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains new requirements around confidentiality of information with respect to designated persons. The Secretary of State may inform only certain persons of a designation, variation or revocation and may specify that any of that information is to be treated as confidential.</p> <p>Any person must treat such information as confidential where it knows, or has reasonable cause to suspect, that the information is to be treated as confidential (subject to permitted lawful disclosures). It is a criminal offence to contravene this requirement.</p> <p>Regulation 51(3) contains penalties for the above requirements.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions. However, financial institutions will be required to update their internal compliance systems and controls to ensure that any information about designated persons that is received on the basis of the above is kept confidential.</p>
Asset freeze in relation to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 11(1)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in UK SI to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 11(5)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 3(2)(b)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" <i>economic resources</i> as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions will need to ensure that their policies and procedures take into account this amended definition.</p>
Asset freeze in relation to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 11(6)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are "<i>owned, held or controlled</i>" by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person or any other person holds an interest in the assets, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in the possession of the person. This new language largely mirrors previous non-binding guidance provided by the EU.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions will need to ensure that their policies and procedures take into account this amended definition.</p>
Asset freeze	Venezuela	Venezuela	(b)	<b>Potentially High Impact</b>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
in relation to designated persons	(Sanctions) (EU Exit) Regulations 2019, Reg. 11(7)	(European Union Financial Sanctions) Regulations 2017, Reg. 3		<p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be "<i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.</p>
Asset freeze in relation to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 33(1)-(2)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) <i>The prohibition in regulation 11 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</i></p> <p style="padding-left: 40px;">(a) <i>is held by P, and</i></p> <p style="padding-left: 40px;">(b) <i>is not held jointly with the designated person.</i></p> <p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p style="padding-left: 40px;">(a) <i>is not the designated person, and</i></p> <p style="padding-left: 40px;">(b) <i>is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This change is unlikely to have a material impact on the obligations of financial institutions.
Prohibition on making funds and economic resources available to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 12(4) and 14(4)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 4 and 6	(b)	<p><b>Potentially High Impact</b></p> <p>The prohibition on making funds or economic resources available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made "<u>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</u>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making funds or economic recourse available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts. Therefore, financial institutions will need to update their policies and procedures.</p>
Ownership and control provisions	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p>

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				<p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 33(3)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 33(5)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened <i>by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 33	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Financial Services SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the UK without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p> <p>This change will need to be reflected in internal policies and procedures.</p>
Exemptions to asset freeze and	Venezuela (Sanctions) (EU Exit) Regulations	Venezuela (European	(c)	<p><b>Low Impact</b></p>

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Company number: 10250295. Registered address: UK Finance Limited, 1 Angel Court, London, EC2R 7HJ

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
prohibition on making funds and economic resources available to designated persons	2019, Reg. 33(6)	Union Financial Sanctions) Regulations 2017, Reg. 8		<p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 35(2)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 9	(b)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts by a particular person only where the Treasury consider that it is appropriate to issue the licence for a purpose set out in Schedule 4 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	Venezuela (Sanctions) (EU	Venezuela (European	(c)	<p><b>Low Impact</b></p>

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Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	Exit) Regulations 2019, Reg. 37	Union Financial Sanctions) Regulations 2017, Reg. 9		Under the EU Financial Services SI the Treasury may grant vary or revoke a licence. The new UK SI further provides that a person who issues a licence may " <i>issue, vary, revoke or suspend</i> " it.
Treasury Licences	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 38(1)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 41(5)	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in a EU Member State or enforceable in the UK or where it receives funds transferred to the account.</p> <p>The UK SI amends such obligation by requiring a relevant institution to inform the Treasury without delay whenever they credit an account in accordance with regulation 33(4) (where they receive funds transferred to that institution for crediting to a frozen account) or transfer funds from a frozen account in accordance with regulation 33(6).</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but financial institutions must ensure that their policies and procedures reflect the amended requirements.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Information Obligations	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 41(4)	Venezuela (European Union Financial Sanctions) Regulations 2017, Annex 1(4)	(c)	<p><b>Low Impact</b></p> <p>The UK SI specifies that relevant firms must state the nature and amount or quantity of any funds or economic resources held by it for the customer <i>at the time when it first had the knowledge or suspicion</i>. The EU Financial Services SI did not have a reference to "at the time when it first had the knowledge or suspicion".</p> <p>Whilst this is a helpful clarification which is unlikely to have a material impact on financial institutions, financial institutions will need to ensure that they keep appropriate records to enable them to report the relevant figures "at the time when they first had the knowledge or suspicion".</p>
Offences	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 51	<p>Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 12(2)</p> <p>The Export Control (Venezuela Sanctions) Order 2018, Reg. 8</p>	(c)	<p><b>Low Impact</b></p> <p>The UK SI amends the penalties for breaches of reporting obligations (Reg. 41(1),(2) or (4)) and information offences (Reg. 45) to:</p> <p>on summary conviction in England and Wales, to imprisonment for a term not <i>exceeding 6 months</i> or a fine (or both) (instead of the 12 months);</p> <p>on summary conviction in Scotland, to imprisonment for a term not <i>exceeding 6 months</i> or a fine not exceeding <i>level 5 on the standard scale</i> (or both) (instead of the 12 months and a fine up to the statutory maximum);</p> <p>on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine <i>not exceeding level 5 on the standard scale</i> (or both) (instead of the statutory maximum).</p> <p>The UK SI also amended the penalties for offences related to trade controls.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Powers to request information	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 43	Venezuela (European Union Financial Sanctions) Regulations 2017, Annex 2	(b)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI allowed the Treasury to request information from the designated person about expenditure by <i>or on behalf of</i> the designated person. The UK SI does not contain a reference to "<i>on behalf of</i>" and instead it contains a clarification that "<i>expenditure for the benefit of a designated person includes expenditure on the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>".</p> <p>In addition, the UK SI clarifies that the Treasury may request a person to provide specified information if the Treasury believes that the person may be able to provide the information. The right to request information is no longer limited to "<i>any person in or resident in the United Kingdom</i>" which was contained in the EU Financial Services SI.</p> <p>The UK SI also contains an additional purpose for which information can be requested by the Treasury (for "<i>detecting</i>" evidence of the commission of an offence).</p> <p>These changes are unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 22-26	The Council Regulation (EU) 2017/2063 of 13th November 2017, art. 2(a), 3(a) and 6(a)  The Export Control (Venezuela	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains prohibitions on:</p> <p>the export of military goods, internal repression goods, and interception and monitoring goods ("<b>restricted goods</b>") to, or for use in, Venezuela;</p> <p>directly or indirectly supplying or delivering restricted goods from a third country to a place in Venezuela;</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		Sanctions) Order  2018, Reg.3 (1), 4(1) and 5(1)		<p>directly or indirectly making restricted goods or restricted technology available to a person connected with Venezuela or for use in Venezuela;</p> <p>transfer restricted technology to a place in Venezuela and transfer restricted technology to a person connected with Venezuela;</p> <p>technical assistance relating to restricted goods or restricted technology to a person connected with Venezuela; or for use in Venezuela.</p> <p>The Export Control (Venezuela Sanctions) Order 2018 (the "<b>EU Export Control SI</b>") stipulates that, for an offence to occur in relation to the prohibition, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance <i>with the intent to evade</i> the prohibition in the regulations. The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person was connected with Venezuela or that the transfer was to a place in Venezuela.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).</p> <p>The EU Regulation on Venezuela referred to "<i>equipment which might be used for internal repression as listed in Annex I</i>", "<i>technical assistance related to the goods and technology listed in the EU Common List of Military Equipment</i>" and "<i>equipment, technology or software identified in Annex II</i>".</p> <p>The prohibitions in the EU Regulation on Venezuela apply with respect to the sale, supply, transfer or export to <i>any person, entity or body in Venezuela or for use in Venezuela</i>, whereas the UK SI refers to "<i>a person connected with Venezuela or for use in Venezuela</i>".</p> <p>The definitions of restricted goods and restricted technology are different from the terms</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				used in the EU Regulation on Venezuela.  This change is unlikely to have a material impact on the obligations of financial institutions.
Trade Controls	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 27	The Council Regulation (EU) 2017/2063 of 13th November 2017, art. 2(1)(b), 3(c) and 7(1)(b)  The Export Control (Venezuela Sanctions) Order  2018, Reg.3(1), 4(1) and 5(1)	(c)	<p><b>Potentially High Impact</b></p> <p>The prohibition on providing financial services and funds related to military goods and technology is broader than the equivalent provisions in the EU Regulation on Venezuela. Specifically, there are restrictions on:</p> <p>(1) Providing financial services to a person connected with Venezuela in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the export of restricted goods;</li> <li>(b) the direct or indirect supply or delivery of restricted goods;</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person;</li> <li>(d) the transfer of restricted technology; or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</li> </ul> <p>(2) Directly or indirectly making funds available to a person connected with Venezuela in pursuance of or in connection with an arrangement mentioned above.</p> <p>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</p> <ul style="list-style-type: none"> <li>(a) the export of restricted goods to, or for use in, Venezuela,</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<ul style="list-style-type: none"> <li>(b) the direct or indirect supply or delivery of restricted goods to a place in Venezuela,</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person connected with Venezuela, or for use in Venezuela,</li> <li>(d) the transfer of restricted technology to a person connected with Venezuela, or to a place in Venezuela, or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology to a person connected with Venezuela, or to a place in Venezuela.</li> </ul> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance <i>with the intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person was connected with Venezuela (for (1) and (2) above) or that the financial services or funds (as the case may be) were provided in pursuance of or in connection with an arrangement mentioned in (3) above.</p> <p>If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 32).</p> <p>In addition, the EU Regulation on Venezuela referred to "<i>any natural or legal person, entity or body in, or for use in, Venezuela</i>", whereas the UK SI refers to "<i>a person connected with Venezuela, or to a place in Venezuela</i>".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				Financial institutions will need to update their policies and procedures.
Trade Controls	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 28	The Council Regulation (EU) 2017/2063 of 13th November 2017, art. 2(1)(a), 3(b), 7(1)(a), 2(1)(b), 3(c) and 7(1)(b)  The Export Control (Venezuela Sanctions) Order  2018, Reg. 3(1), 4(1) and 5(1)	(b)	<p><b>Potentially High Impact</b></p> <p>New restrictions are imposed in the UK SI concerning the provision of "brokering services" in relation to an arrangement ("arrangement A") whose object or effect is (among other things):</p> <p>(a) the direct or indirect provision, in a country other than the UK, of financial services to (i) a person connected with Venezuela, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned under 1. in the preceding row, or where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned under 3. in the preceding row;</p> <p>(b) directly or indirectly making funds available, in a country other than the UK, to a person connected with Venezuela, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned under 1. in the preceding row; or</p> <p>(c) the direct or indirect provision of funds from a country other than the UK, where arrangement A, or any other arrangement in connection with which arrangement A is entered into, is an arrangement mentioned under 3. in the preceding row.</p> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower) prohibition on providing financing or financial assistance, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance <i>with the intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>suspect that the brokering services were provided in relation to an arrangement mentioned above.</p> <p>The EU Regulation on Venezuela referred to "<i>any natural or legal person, entity or body in, or for use in, Venezuela</i>", whereas the UK SI refers to "<i>a person connected with Venezuela, or to a place in Venezuela</i>".</p> <p>The EU Regulation on Venezuela contained a definition of "brokering services" which no longer exist in the UK SI.</p> <p>Financial institutions will need to update their policies and procedures.</p>
Trade Controls	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 30	-	(b)	<p><b>Medium Impact</b></p> <p>New restrictions are imposed in the UK SI concerning enabling or facilitating the conduct of armed hostilities, including a specific prohibition on directly or indirectly providing brokering services, <u>financial services or funds</u> to or for the benefit of the National Bolivarian Armed Forces of Venezuela, or to any person acting on its behalf or under its direction, where such provision relates to the military activities of the recipient in Venezuela, or otherwise enables or facilitates the conduct of armed hostilities in Venezuela.</p> <p>This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to ensure that any lending or financial services activities do not breach the new restriction.</p>
Trade Controls	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 20, 29	The Council Regulation (EU) 2017/2063 of 13th November 2017, art. 7(1)(c)	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains amended requirements around "interception and monitoring services" which cannot be provided to, or for the benefit of the Government of Venezuela. The EU Regulation on Venezuela contained similar requirements but with respect to "<i>Venezuela's government, public bodies, corporations and agencies or any person or entity acting on their</i></p>

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		The Export Control (Venezuela Sanctions) Order  2018, Reg. 5(1)		<p><i>behalf or at their direction".</i></p> <p>In addition, the UK SI contains a new broad definition of "interception and monitoring services". The EU Regulation on Venezuela used a term of "telecommunication or internet monitoring or interception services" which are defined as the <i>services that provide, in particular using equipment, technology or software as identified in Annex II, access to and delivery of a subject's incoming and outgoing telecommunications and call- associated data for the purpose of its extraction, decoding, recording, processing, analysis or storing, or any other related activity.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions, but this change will need to be reflected in internal policies and procedures.</p>
Offences	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 39(1)	The Export Control (Venezuela Sanctions) Order  2018, Reg. 7(1)	(b)	<p><b>Low Impact</b></p> <p>Under the EU Export Control SI a person commits an offence if it makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or recklessly makes any statement or furnishes any document or information which is false in a material particular. The UK SI supplemented the above with cases of <i>providing or producing a document that is not what it purports to be</i> and clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Record keeping	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 47 and 48	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI contains new record keeping requirements for the holders of general trade licences. The register or record relating to an act must be kept until the end of the calendar year in which the register or record is created and for a further period of 4 years from the end of that calendar year.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>There is also an obligation to notify the Secretary of State in writing of the holder's name and the address at which the register or record may be inspected, and must make a further such notification if those details change.</p> <p>A person authorised by the Secretary of State or the Commissioner may carry out site visits and may request to inspect the records.</p> <p>A failure to comply with the above requirements is a criminal offence.</p> <p>These new requirements will be relevant to a financial institution that obtained a licence for provision of financial services and funds relating to restricted goods and restricted technology. Financial institutions will need to ensure that they create and keep appropriate records.</p>
Proceedings	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 54 and 55	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 13	(c)	<p><b>Low Impact</b></p> <p>The UK SI clarifies that where it is alleged that an offence has been committed by an unincorporated body (as opposed to by a member of the body), proceedings in England and Wales or Northern Ireland for such an offence must be brought against the body in its own name. A fine imposed on an unincorporated body on its conviction of an offence is to be paid out of the funds of the body.</p> <p>The UK SI clarifies that with respect to the enforcement proceedings <i>a certificate purporting to be so signed</i> by the prosecutor <i>is to be treated as being so signed unless the contrary is proved</i>.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as they tend to be incorporated as bodies corporate.</p>
Disclosure of	Venezuela	Venezuela	(c)	<b>Low Impact</b>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
information	(Sanctions) (EU Exit) Regulations 2019, Reg. 49	(European Union Financial Sanctions) Regulations 2017, Annex. 5		<p>The UK SI contains a wider list of purposes for which information can be disclosed by the Secretary of State, the Treasury or the Commissioners. For example, the information can be disclosed to <i>any regulatory body (whether or not in the United Kingdom), the Government of any country; any other person where the Secretary of State, the Treasury or the Commissioner (as the case may be) considers that it is appropriate to disclose the information.</i></p> <p>The UK SI no longer requires consent from a person who, in their own right, is entitled <i>possession of the document, copy or extract.</i> However, consent is still required from <i>a person who, in their own right, is entitled to the information.</i></p> <p>This change should not have a material impact on the obligations of financial institutions.</p>
Notices	Venezuela (Sanctions) (EU Exit) Regulations 2019, Reg. 66	Venezuela (European Union Financial Sanctions) Regulations 2017, Reg. 16	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains more detailed provisions related to provision of notices with respect to licences. The EU Financial Services SI stated that a notice may be given (a) by posting it to the person's last known address, or (b) where the person is a body corporate, partnership or unincorporated body other than a partnership, by posting it to the registered or principal office of the body or partnership concerned. Where the Treasury do not have an address for the person, they must make arrangements for the notice to be given to the person at the first available opportunity.</p> <p>The UK SI contains separate provisions for providing notices to individuals and body corporates, partnerships or unincorporated bodies. It also specifies that a notice may be given to the person by other means, including by electronic means, with the person's consent.</p> <p>This change should not have a material impact on the obligations of financial institutions.</p>

# The Yemen (Sanctions) (EU Exit) (No. 2) Regulations 2020

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 12(1)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 3(1)	(c)	<p><b>Low Impact</b></p> <p>The Yemen (European Union Financial Sanctions) Regulations 2014/3349 (the "EU Financial Services SI") imposed a prohibition on dealing with funds or economic resources "<i>belonging to, or owned, held or controlled by</i>" a designated person.</p> <p>The wording of this prohibition has been amended slightly in the new Yemen (Sanctions) (EU Exit) Regulations 2020/733 (the "UK SI") to remove the reference to funds or economic resources "<i>belonging</i>" to designated persons.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 12(2)(b)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 3(5)	(c)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the EU Financial Services SI previously defined the phrase "<i>deals with</i>" economic resources as the "<i>exchange, or use in exchange, for funds, goods or services</i>".</p> <p>This definition has been extended slightly in the UK SI to include the pledge of economic resources as security or otherwise.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated	Yemen (Sanctions) (EU Exit)	Yemen (European Union Financial	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned,</p>

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persons	(No.2) Regulations 2020/1278, Reg. 12(6)	Sanctions) Regulations 2014/3349, Reg. 3		held or controlled by a designated person, the UK SI includes a new provision stating that funds or economic resources are " <i>owned, held or controlled</i> " by a person if that person has any legal or equitable interest in such assets, regardless of whether the interest is held jointly with any other person, or if they have any tangible property (other than real property), or bearer security which is comprised in funds or economic resources and is in their possession. This new language largely mirrors previous non-binding guidance provided by the EU.  This change is unlikely to have a material impact on the obligations of financial institutions.
Asset freeze in relation to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 12(7)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 3	(b)	<b>Potentially High Impact</b>  For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI provides that funds or economic resources are to be " <i>treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i> " (emphasis added).  This new language extends the previous prohibition on dealing with the funds or economic resources of designated persons found in the EU Financial Services SI to include a new express prohibition on dealing with the funds or economic resources of <i>entities owned or controlled by</i> such designated persons.
Prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 13(4)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 4	(b)	<b>Potentially High Impact</b>  The prohibition on making funds available directly or indirectly to designated persons is extended by the UK SI, which provides expressly that funds are made available indirectly to a designated person if made " <i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i> " (emphasis added).  This new prohibition is more restrictive than previous non-binding guidance by the EU, which

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				provided that there was a presumption that making funds available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.
Prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 15(4)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 6	(b)	<p><b>Potentially High Impact</b></p> <p>For the purposes of the prohibition on making economic resources available to designated persons, the UK SI provides that economic resources are made available indirectly to a designated person if made "<i>available to a person who is owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person</i>" (emphasis added).</p> <p>This new prohibition is more restrictive than previous non-binding guidance by the EU, which provided that there was a presumption that making economic resources available to a person owned or controlled by a designated person was to make them available indirectly to a designated person, albeit this presumption could be rebutted on the facts.</p>
Ownership and control provisions	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 7	-	(c)	<p><b>Potentially High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</p> <p>(3) Schedule 1 contains provision applying for the purpose of interpreting paragraph (2).</p> <p>(4) The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</p> <p>This new provision extends and replaces non-binding guidance previously provided by the EU.</p> <p>Schedule 1 sets out the rules of interpretation for determining ownership and control. This may have an impact on financial institutions to the extent that it imposes an additional due diligence burden to investigate whether the conditions outlined above are satisfied.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 30(1)-(2)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 3	(b)	<p><b>Low Impact</b></p> <p>For the purposes of the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, the UK SI sets out the following new exception:</p> <p>(1) The prohibition in regulation 12 (asset-freeze in relation to designated persons) is not contravened by an independent person ("P") transferring to another person a legal or equitable interest in funds or economic resources where, immediately before the transfer, the interest—</p> <p>(a) is held by P, and</p> <p>(b) is not held jointly with the designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(2) <i>In paragraph (1) "independent person" means a person who—</i></p> <p><i>(a) is not the designated person, and</i></p> <p><i>(b) is not owned or controlled directly or indirectly (within the meaning of regulation 7) by the designated person.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 30(3)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 8(1)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI previously provided that a person who credits a frozen account with interest or other earnings due on an account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to <i>relevant institutions (i.e. firms with Part 4A permission under FSMA)</i> only. Secondly, under the UK SI this exception applies to the <i>prohibition on dealing with funds or economic resources owned, held or controlled by a designated person</i>, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 30(5)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 8(1)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI provided that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account will not have contravened the prohibitions on making funds available to or for the benefit of a designated person.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
available to designated persons				<p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 30(6)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 8	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 12 to 14 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2001,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2002, and</i></p> <p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exemptions to asset freeze and prohibition on making funds and economic resources available to designated persons	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 30	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 8(1)(c)	(b)	<p><b>Medium Impact</b></p> <p>The previous exception under the EU Financial Services SI allowing a person to credit a frozen account with payments due under judicial, administrative or arbitral decisions rendered in an EU Member State or enforceable in the Member State concerned without contravening the prohibitions on making funds available to or for the benefit of a designated person has been deleted.</p>
Treasury Licences	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 33(2)-(4)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 9	(b), (d)	<p><b>Low Impact</b></p> <p>The UK SI limits the ability of the Treasury to issue a licence authorising acts in relation to both UN and non-UN designated persons to instances where the Treasury considers a licence appropriate for a purpose set out in Schedule 2 of the UK SI. Similar restrictions did not apply expressly under the EU Financial Services SI.</p> <p>This provision as it relates to non-UN designated persons should be contrasted with regulation 34(2) of the Sudan (Sanctions) (EU Exit) Regulations 2020/733. Whilst the provisions are similar, in the new Sudanese Regulations the phrase "<i>by a particular person</i>" has been added. It should further be noted that the grounds for granting a licence differ.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278,	Yemen (European Union Financial Sanctions) Regulations	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also <i>suspend</i> it at any time.</p>

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	Reg. 35(5)	2014/3349, Reg. 9(3)		
Treasury Licences	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 36(1)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 9(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI a person commits an offence if they knowingly or recklessly provide materially false information, or documents that are not what they purport to be, for the purpose of obtaining a licence. The UK SI clarifies that this offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 39(5)	Yemen (European Union Financial Sanctions) Regulations 2014/3349, Reg. 8(3)	(c)	<p><b>Medium Impact</b></p> <p>The EU Financial Services SI requires a relevant institution to inform the Treasury without delay if it credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account, or with payments due under judicial, administrative or arbitral decisions rendered in a EU Member State or enforceable in the Member State concerned.</p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits an account in accordance with regulation 30(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with regulation 30(6).</p>
Trade Controls	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Regs. 20-23	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains express restrictions on the export of military goods to a designated person, and the supply or delivery of military goods from a third country to a designated person. There is also a restriction on making military goods or technology available or transferring military technology to or for the benefit of designated persons.</p>

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				<p>Designated persons for purposes of these controls may not be the same as designated persons which are the subject of the financial provisions referred to above.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions as similar restrictions are currently contained in the Export Control Order 2008.</p>
Trade Controls	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278  Reg. 24	The Export Control (Yemen Sanctions) Regulations  2015, Reg. 3(a)	(c)	<p><b>Low Impact</b></p> <p>The Export Control (Yemen Sanctions) Regulations 2015 (the "EU Export Control SI") stipulates that, for an offence to occur in relation to the prohibition on providing technical assistance to designated persons related to military activities, a person must be <i>knowingly</i> concerned in the provision of such technical assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that the person to whom, or for whose benefit, the technical assistance was provided was a designated person. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 29).</p>
Trade Controls	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 25	The Export Control (Yemen Sanctions) Regulations  2015, Reg. 3(b)	(c)	<p><b>Low Impact</b></p> <p>The prohibition on providing financial services and funds related to military goods and technology to designated persons in Yemen is broader than the equivalent provisions in the EU Export Control SI. Specifically, there are restrictions on:</p> <p>(1) <i>Providing financial services to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement whose object or effect is—</i></p> <p>(a) <i>the export of military goods,</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(b) the direct or indirect supply or delivery of military goods,</p> <p>(c) directly or indirectly making military goods or military technology available to a person,</p> <p>(d) the transfer of military technology, or</p> <p>(e) the direct or indirect provision of technical assistance relating to military goods or military technology.</p> <p>(2) Directly or indirectly making funds available to, or for the benefit of, a designated person in pursuance of or in connection with an arrangement mentioned above.</p> <p>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is—</p> <p>(a) the export of military goods to, or for the benefit of, a designated person,</p> <p>(b) the direct or indirect supply or delivery of military goods to, or for the benefit of, a designated person,</p> <p>(c) directly or indirectly making military goods or military technology available to, or for the benefit of, a designated person,</p> <p>(d) the transfer of military technology to, or for the benefit of, a designated person, or</p> <p>(e) the direct or indirect provision of technical assistance relating to military goods or military technology to, or for the benefit of, a designated person.</p> <p>The Export Control SI stipulates that, for an offence to occur in relation to the (narrower)</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>prohibition on providing financing or financial assistance to designated persons related to military activities, a person must be <i>knowingly concerned</i> in the provision of such financing or financial assistance with the <i>intent to evade</i> the prohibition in the regulations.</p> <p>The UK SI does not contain a requirement on the prosecution to establish <i>intent to evade</i>. There is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (Reg. 29).</p>
Trade Controls	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 26	-	(b)	<p><b>Low Impact</b></p> <p>New restrictions are imposed in the UK SI concerning the provision of "<i>brokering services</i>" in relation to arrangements concerning the export, supply, delivery and transfer of military goods and technology.</p> <p>Designated persons for purposes of these controls may not be the same as designated persons which are the subject of the financial provisions referred to above.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Trade Controls	Yemen (Sanctions) (EU Exit) (No.2) Regulations 2020/1278, Reg. 27		(b)	<p><b>Medium Impact</b></p> <p>New restrictions are imposed in the UK SI concerning enabling or facilitating the conduct of armed hostilities, including a specific prohibition on directly or indirectly providing financial services or funds to or for the benefit of a designated person where such provision enables or facilitates the conduct of armed hostilities.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

# The Zimbabwe (Sanctions) (EU Exit) Regulations 2019

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<ul style="list-style-type: none"> <li>– The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604 (the "UK SI")</li> <li>– The Zimbabwe (Financial Sanctions) Regulations 2009/847 (the "EU Financial Services SI")</li> <li>– EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe (the "EU Regulation")</li> <li>– EU Guidance 8519/18 on Restrictive measures (Sanctions) – Update of the EU Best Practices for the effective implementation of restrictive measures (the "EU Guidance")</li> <li>– The Zimbabwe (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004/559 (the "EU Export Control SI")</li> <li>– The Export Control Order 2008/3231 (the "Export Control Order")</li> <li>– Sanctions and Anti-Money Laundering Act 2018 (the "SAMLA")</li> </ul>
Asset freeze in relation to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 11(1)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 6(1)	(c)	<p><b>Low Impact</b></p> <p>The EU Financial Services SI imposed a prohibition on dealing with funds or economic resources "<i>belonging to a designated person</i>". The substantive difference is that the UK SI has changed the language to "<i>owned, held or controlled by a designated person</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions (and also brings the asset freeze in line with other UK SIs).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Asset freeze in relation to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 11(5)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 6(2)(b)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation defines freezing of economic resources as "<i>preventing their use to obtain funds, goods or services in any way, including, but not limited to, the selling, hiring or mortgaging of them</i>".</p> <p>The UK SI adopts a more specific definition, stating that a person "<i>deals with</i>" economic resources if that person "<i>exchanges the economic resources for funds, goods or services, or uses the economic resources in exchange for funds, goods or services (whether by pledging them as security or otherwise)</i>". This largely mirrors the language of the EU Financial Services SI; however the reference to pledging the resources as security is new (albeit similar to "<i>mortgaging</i>").</p> <p>Although the EU Regulation's definition is slightly broader (covering "<i>use</i>" in "<i>any way</i>"), it is unlikely that in most cases the UK SI's language of "<i>exchanging</i>" or "<i>using the economic resources in exchange for...</i>" will produce substantively different results. The EU examples of "<i>selling, hiring or mortgaging [economic resources]</i>" are also replaced by the example of "<i>pledging them as security or otherwise</i>". In theory, this creates a greater scope for debate over what constitutes "<i>use...in exchange for funds</i>", etc., but again this is unlikely to produce drastically different results in practice. It is worth noting that the definition of "<i>economic resources</i>" in s. 60 of the Sanctions and Anti-Money Laundering Act 2018 does not refer to the "<i>exchange</i>" of economic resources; it simply refers to "<i>assets...which can be used to obtain funds</i>" so the use of the word "<i>exchange</i>" may have something of a limiting effect.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Asset freeze in relation to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations	EU Guidance 8519/18	(c)	<p><b>Low Impact</b></p> <p>The UK SI provides further detail on the meaning of funds or economic resources that are treated as "<i>owned, held or controlled</i>" stating that they include:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
	2019/604, Reg. 11(6)			<p>(a) <i>"funds or economic resources in which the person has any legal or equitable interest, regardless of whether the interest is held jointly with any other person and regardless of whether any other person holds an interest in the funds or economic resources"</i> (emphasis added); and</p> <p>(b) <i>"any tangible property (other than real property), or bearer security, that is comprised in funds or economic resources and is in possession of the person."</i></p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance states that <i>"holding or controlling"</i> should be construed as comprising all situations where, without having a title of ownership, a designated person or entity is able lawfully to dispose of or transfer funds or economic resources he, she or it does not own, without any need for prior approval by the legal owner. A designated person is considered as holding or controlling funds or economic resources, <i>inter alia</i>, if he or she:</p> <p>(a) has banknotes or debt certificates issued to bearer,</p> <p>(b) has movable goods on his or her premises which he or she owns jointly with a non-designated person or entity,</p> <p>(c) has received full or similar powers to represent the owner, allowing him or her to order the transfer of funds he or she does not own (e.g. for the purpose of managing a specific bank account), or</p> <p>(d) is a parent or guardian administering a bank account of a minor in accordance with the applicable national law.</p> <p>Although both sets of examples given in the UK SI and EU Guidance are non-exhaustive, it would appear the UK SI casts a wider net on the meaning of <i>"owned, held or controlled"</i> as it captures <u>any</u> legal or equitable interest, without the requirement that the designated person can dispose of or transfer the funds/economic resources without any need for prior approval</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>from the legal owner (which is required under EU Guidance). It also covers any tangible property comprised in funds/economic resources in possession of the designated person, which is seemingly wider than EU Guidance.</p> <p>Therefore, we may see a differing approach in the UK and EU concepts of holding or controlling funds/economic resources.</p>
Asset freeze in relation to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 11(7)	EU Guidance 5993/13	(c)	<p><b>High Impact</b></p> <p>Under the UK SI, "<i>funds or economic resources are to be treated as owned, held or controlled by a designated person if they are owned, held or controlled by a person who is owned or controlled directly or indirectly (within the meaning of regulation 7 [discussed below]) by the designated person.</i>"</p> <p>This language does not appear in the EU Financial Services SI. However, EU Guidance, on the provision of funds or economic resources to non-listed persons or entities which are owned or controlled by a listed person or entity, states that this will "<i>in principle be considered as making them indirectly available to the [listed person or entity], unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances [...] that the funds or economic resources concerned will not be used by or be for the benefit of that listed person or entity</i>" (emphasis added).</p> <p>The new language in the UK SI — which prohibits dealing with the funds or economic resources of entities "<i>owned or controlled</i>" by designated persons — mirrors EU Guidance. However, under the EU Regulation, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Prohibition on making funds and economic resources available to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Regs. 12 and 14	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 7	(c)	<p><b>High Impact</b></p> <p>There is new language in the UK SI, which does not appear in the EU Financial Services SI, at subsection (4) of Regs. 12 and 14 – which prohibits making funds or economic resources available to entities "<i>owned or controlled directly or indirectly</i>" by a designated person.</p> <p>This extension mirrors EU Guidance on the "indirect" ways to make funds or economic resources available to listed persons or entities (outlined above). However, under the EU Guidance, there would be a rebuttable presumption that doing so is making funds indirectly available to designated persons, whereas the UK SI now makes this an express statutory provision with no possibility of proving that the funds or economic resources were not, in fact, for the benefit of the designated person. Financial institutions will need to ensure they have appropriate checks and balances in place to identify the ownership <u>and</u> control structures of their counterparties.</p>
Prohibition on making funds or economic resources available for the benefit of designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Regs. 13 and 15	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 7	(c)	<p><b>Medium Impact</b></p> <p>Under the UK SI, funds/economic resources "<i>are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a <u>significant financial benefit</u></i>" (emphasis added) and a "<i>financial benefit includes the discharge (or partial discharge) of a financial obligation for which the designated person is wholly or partly responsible</i>". This definition was not provided for by the EU Financial Services SI, nor does the EU Financial Sanctions SI cover making funds available for the benefit of a designated person.</p> <p>Additionally, the concept of "<i>significant financial benefit</i>" differs from the EU Guidance on what constitutes making economic resources available and does not appear in the EU Regulation – although not defined, it has a wide meaning under European jurisprudence and "<i>encompasses all the acts necessary under the applicable national law if a person is effectively to obtain full power of disposal in relation to the economic resource concerned...</i>". The test of "<i>full power of disposal</i>" is, on its face, more stringent than a "<i>significant financial benefit</i>". Again, we might see a divergence between the EU and UK concepts of "making available".</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Non-liability for freezing in "good faith"	Sanctions and Anti-Money Laundering Act 2018, section 44	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 9	(a)	<p><b>Low Impact</b></p> <p>Art. 9 of the EU Regulation contains a sheltering provision which provides that where funds or economic resources were frozen, or there was a refusal to make funds or economic resources available, performed in good faith on the basis that doing so was in accordance with the EU Regulation, does not give rise to any liability unless it is proven that those acts were negligent.</p> <p>Under section 44 of the SAMLA, a person is not liable to civil proceedings for acts done in the reasonable belief that they were in compliance with sanctions regulations (including financial sanctions and trade sanctions). The SAMLA exception does not exclude negligent acts/omissions – this therefore appears to provide for a broader sheltering provision in UK sanctions legislation.</p>
Ownership and control provisions	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 7 and Sch. 1	-	(c)	<p><b>High Impact</b></p> <p>The UK SI provides that, for the purposes of the asset freeze and prohibition on making funds or economic resources available, a person will be deemed to be "<i>owned or controlled directly or indirectly</i>" by another person if either of two conditions are met.</p> <p>(1) <i>A person who is not an individual ("C") is "owned or controlled directly or indirectly" by another person ("P") if either of the following two conditions is met (or both are met).</i></p> <p>(2) <i>The first condition is that P—</i></p> <p>(a) <i>holds directly or indirectly more than 50% of the shares in C,</i></p> <p>(b) <i>holds directly or indirectly more than 50% of the voting rights in C, or</i></p> <p>(c) <i>holds the right directly or indirectly to appoint or remove a majority of the board of directors of C.</i></p>

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				<p>(3) [...]</p> <p>(4) <i>The second condition is that it is reasonable, having regard to all the circumstances, to expect that P would (if P chose to) be able, in most cases or in significant respects, by whatever means and whether directly or indirectly, to achieve the result that affairs of C are conducted in accordance with P's wishes.</i></p> <p>Limb (c) of the first condition and the second condition effectively contain the UK SI's definition of "control". This is arguably narrower than the corresponding definition in the EU Guidance, which provides the following (non-exhaustive) criteria for establishing control <u>in addition to</u> the ability to appoint or remove a majority of the board:</p> <p>(a) <i>having the right or exercising the power to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person or entity;</i></p> <p>(b) <i>having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person or entity who have held office during the present and previous financial year;</i></p> <p>(c) <i>controlling alone, pursuant to an agreement with other shareholders in or members of a legal person or entity, a majority of shareholders' or members' voting rights in that legal person or entity;</i></p> <p>(d) <i>having the right to exercise a dominant influence over a legal person or entity, pursuant to an agreement entered into with that legal person or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person or entity permits its being subject to such agreement or provision;</i></p> <p>(e) <i>having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;</i></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(f) <i>having the right to use all or part of the assets of a legal person or entity;</i></p> <p>(g) <i>managing the business of a legal person or entity on a unified basis, while publishing consolidated accounts;</i></p> <p>(h) <i>sharing jointly and severally the financial liabilities of a legal person or entity, or guaranteeing them.</i></p> <p>The UK SI has adopted the approach of having a catch-all, as show in subsection (4) above, and so likely having regard to "all the circumstances" will include the factors above. However, on the face of it, the wording of the UK SI presents a much more limited view of what constitutes "control".</p> <p>In addition to codifying the definition of ownership and control, the UK SI contains at Sch. 1 rules of interpretation that apply in connection with these concepts. Of significance are the following:</p> <p>Pursuant to para. 2 of Sch. 1, persons who hold a share or right jointly are each treated as holding that share or right;</p> <p>Pursuant to para. 3 of Sch. 1, if separate shares or rights are held by persons but subject to a joint arrangement between those persons, each of them is treated as holding the combined shares/rights held by both of them.</p> <p>These provisions are not directly replicated in the EU Guidance and whilst there are aspects of the EU Guidance that may have a similar effect (see para. (c) in particular), the language of the codified UK SI is broader. The EU Guidance does not expressly reference joint interests and arrangements and in several places the wording seems to anticipate only one person holding rights or exercising powers in order for the control test to be met.</p> <p>Para. 4 of Sch. 1 defines a person holding "<i>more than 50% of the shares</i>" in a person to be a</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>person holding shares comprised in the issued share capital of that person "<i>of a nominal value exceeding (in aggregate) 50% of that share capital</i>". This does not require a numerical calculation of the number of issued shares, but instead appears to assess the aggregate value of all issued shares. This may be complicated to apply in relation to companies with different categories of shares issued at different nominal values and is slightly different from the EU Guidance which focusses on more than "<i>50% of the proprietary</i>" rights in a person.</p> <p>Para. 9 of Sch. 1 deals with the meaning of shares or rights being held "<i>indirectly</i>". This occurs where a person has a "majority stake" in another person and that other person holds the share in question or is part of a chain which ultimately holds such share. The definition of "majority stake" is odd because it deploys language which derives from the EU Guidance and not the provisions in the UK SI.</p> <p>Also, para. 9(4) of Sch. 1 of the UK SI sets out a definition of what constitutes the right to appoint or remove the majority of the board of directors or a person for purposes of understanding what constitutes holding a "majority stake". This definition appears to be narrow as it refers to situations where a person's appointment as director flows from their appointment as director of the entity with the "majority stake" or where the entity with the "majority stake" itself holds the directorship. It does not refer to situations where the entity with the "majority stake" exercises the right to appoint persons that are not also its directors and does not itself hold the directorship. It is unclear if this provision is intended to be exhaustive or not (if the latter, then it is likely that these situations would also be picked up, but the drafting is unclear).</p> <p>Paras. 10 and 11 of Sch. 1 of the UK SI also provide helpful codification of the application of ownership and control provisions in relation to nominee situations not expressly captured in the EU Guidance (albeit that the EU Guidance can be interpreted to apply to nominee situations). Similar helpful codification is provided in para. 14 in relation to rights attached to shares held by way of security (which are to be treated as being held by the person providing such security where they can only be exercised in accordance with that person's instructions or in that person's interests (except for purposes of preserving or exercising security)).</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 31(3)	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 7(2)(a)	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with interest or other earnings on the frozen account does not contravene the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. First, the exception now expressly applies to relevant institutions (i.e. firms with Part 4A permission under FSMA) only. Secondly, under the UK SI this exception applies to the prohibition on dealing with funds or economic resources owned, held or controlled by a designated person, as well as the prohibitions on making funds available to or for the benefit of a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 31(4)	-	(b)	<p><b>Low Impact</b></p> <p>The UK SI contains an exception to the prohibitions on making funds available to, or for the benefit of, designated persons such that they are not contravened "<i>by a relevant institution crediting a frozen account where it receives funds transferred to that institution for crediting to that account</i>".</p> <p>This exception is not contained in the EU Regulation albeit it was contained in the EU Financial Services SI at Reg. 8(2), and so there should be little impact on financial institutions as a result of this change.</p>
Exceptions to asset freeze and prohibition on making	The Zimbabwe (Sanctions) (EU Exit) Regulations	EU Council Regulation 314/2004 concerning	(c)	<p><b>Low Impact</b></p> <p>The EU Regulation provides that a person who credits a frozen account with payments due under contracts, agreements or obligations that were concluded or arose before the date on</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
funds and economic resources available to designated persons	2019/604, Reg. 31(5)	restrictive measures in view of the situation in Zimbabwe, Art. 7(2)(b)		<p>which those accounts became subject to Regulation (EC) No 310/2002 or the EU Regulation will not have contravened the prohibitions on making funds or economic resources available to or for the benefit of a designated person.</p> <p>The scope of this exception has been amended in the new UK SI. Under the new UK SI, the prohibitions on making funds available to or for the benefit of a designated person will not be contravened by the transfer of funds to a relevant institution for crediting to an account held or controlled (directly or indirectly) by a designated person, where those funds are transferred in discharge (or partial discharge) of an obligation which arose before the date on which the person became a designated person.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions but the UK SI wording is broader for non-financial institutions as it allows them to remit the money to the financial institution.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 31(6)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI sets out the following new exception to the prohibitions on dealing with funds or economic resources owned, held or controlled by a designated person, and on making funds available to or for the benefit of a designated person, allowing designated persons to transfer funds between two accounts:</p> <p>(1) <i>The prohibitions in regulations 11 to 13 are not contravened in relation to a designated person ("P") by a transfer of funds from account A to account B, where—</i></p> <p>(a) <i>account A is with a relevant institution which carries on an excluded activity within the meaning of section 142D of the Financial Services and Markets Act 2000,</i></p> <p>(b) <i>account B is with a ring-fenced body within the meaning of section 142A of the Financial Services and Markets Act 2000, and</i></p>

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				<p>(c) <i>accounts A and B are held or controlled (directly or indirectly) by P.</i></p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Exceptions to asset freeze and prohibition on making funds and economic resources available to designated persons	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 32	-	(b)	<p><b>Low Impact</b></p> <p>Reg. 32 contains a new exception for acts done for the purposes of national security or prevention of serious crime, as determined by a person in the service of the Crown or holding office under the Crown, acting in the course of that person's duty.</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>
Treasury Licences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 33(2)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 10  EU Council Regulation 314/2004 concerning restrictive measures in view of the	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the Treasury's rights to issue licences are limited to specified purposes:</p> <ul style="list-style-type: none"> <li>– A licence to enable the basic needs of a designated person to be met remains (see Sch. 3, para. 2) albeit note that the EU Regulation language provided for a licence "<i>necessary for basic expenses</i>" (our emphasis) and the UK SI also extends to the basic needs of any dependent family member of a designated person. However, (i) the types of "<i>basic needs</i>" has been split into those for an individual and those for an entity, (ii) the language appears to focus on the "<i>needs</i>" for food, etc. rather than "<i>payments for</i>" the same – this could potentially allow for broader application, (iii) there are a couple of additional specific "<i>basic needs</i>" for entities such as "<i>the payment of reasonable fees for the provision of property management services</i>" and the "<i>payment of remuneration, allowances or pensions of employees</i>". There is also a fairly broad clarification of what</li> </ul>

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		situation in Zimbabwe, Art. 7(1)		<p>constitutes a "<i>dependent family member</i>" which is likely to assist with decisions of whether a licence would be available in certain circumstances.</p> <ul style="list-style-type: none"> <li data-bbox="987 352 2130 531">– A licence to enable the payment of reasonable professional fees for the provision of legal services remains (see Sch. 3, para. 3). However, there is a new qualification in respect of a licence to enable the payment of expenses associated with the provision of legal services for such expenses to also be "<i>reasonable</i>" (albeit this is in accordance with the practice OFSI applies already).</li> <li data-bbox="987 571 2130 719">– A licence to enable the payment of fees or service charges arising from the routine holding or maintenance of frozen funds or economic resources also remains (see Sch. 3, para. 4). However, again, such fees and service charges are now required to be "<i>reasonable</i>".</li> <li data-bbox="987 759 2130 863">– A licence to enable payment of extraordinary expenses remains (see Sch. 3, para. 5). However, there is a new qualification in that the expenses must be of a designated person.</li> <li data-bbox="987 903 2130 935">– The UK SI also provides the following new licensing purposes:</li> <li data-bbox="987 975 2130 1038">– Implementation or satisfaction (in whole or in part) of a judicial, administrative or arbitral decision or lien (see Sch. 3, para. 6);</li> <li data-bbox="987 1078 2130 1150">– Enabling functions of diplomatic missions or consular posts to be carried out (see Sch. 3, para. 7);</li> <li data-bbox="987 1190 2130 1262">– Dealing with extraordinary situations (see Sch. 3, para. 8) (which is not defined so is potentially flexible, but this is unclear); and</li> <li data-bbox="987 1302 2130 1329">– Satisfaction of prior obligations (see Sch. 3, para. 9).</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				This is beneficial as it provides greater scope for licensing.
Treasury Licences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 35(5)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 10(3)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, the Treasury may vary or revoke a licence at any time. The new UK SI further provides that a person who issues a licence may also "<i>suspend</i>" it at any time.</p>
Treasury Licences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 36(1)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 10(5)	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, a person commits an offence if they knowingly or recklessly make any statement or furnish any document or information that is materially false in a material particular, for the purpose of obtaining a licence. Under the UK SI, the equivalent offence applies if a person "<i>knowingly or recklessly (a) provides information that is false in a material respect, or (b) provides or produces a document that is not what it purports to be</i>". Additionally, the UK SI clarifies that the offence will be committed whether the licence is being sought for the accused's own benefit or for anyone else's.</p> <p>These changes are unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 39 (3) and (4)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Sch. 1, para. 2(2)(c)	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, where a relevant firm is under a reporting obligation to the Treasury, it must "<i>state the nature and amount or quantity of any funds or economic resources held by it for the customer at the time when it first had the knowledge or suspicion</i>" (emphasis added). The EU Financial Services SI, on the other hand, applies to any funds or economic resources held by the relevant institution "<i>since 2<sup>nd</sup> February 2004</i>".</p> <p>This change is unlikely to have a material impact on the obligations of financial institutions.</p>

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Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 39(5)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Sch. 1, para. 2(3)	(b)	<p><b>Medium Impact</b></p> <p>Under the UK SI, a relevant institution must inform the Treasury without delay if that institution credits a frozen account in accordance with Reg. 31(4) (receipt of funds to credit a frozen account) or transfers funds from a frozen account in accordance with Reg. 31(6). The latter notification requirement did not exist under the EU Financial Services SI.</p>
Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 40(1)(a)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Reg. 2(1)	(c)	<p><b>Medium Impact</b></p> <p>Under the UK SI, the reporting obligations to the Treasury under Reg. 39 have been expanded to include "<i>an undertaking that by way of business (i) operates a currency exchange office, (ii) transmits money (or any representation of monetary value) by any means, or (iii) cashes cheques that are made payable to customers</i>".</p> <p>This is likely to have an impact on those financial institutions that fall within the scope of the above.</p>
Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 41(5)	-	(c)	<p><b>Low Impact</b></p> <p>The UK SI contains a new right for the Treasury which "<i>may request a person acting under a Treasury licence to provide information about (a) funds or economic resources dealt with under the licence, or (b) funds or economic resources made available under the licence</i>".</p> <p>This right was not previously included under the EU Financial Services SI.</p>
Information Obligations	The Zimbabwe (Sanctions) (EU Exit)	The Zimbabwe (Financial Sanctions) Regulations	(c)	<p><b>Low Impact</b></p> <p>Under the EU Financial Services SI, the Treasury was permitted to request "<i>any person</i>" to provide relevant information or produce any document in that person's possession or control</p>

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	Regulations 2019/604, Reg. 41(6)	2009/847, Sch. 1, para. 3(1)		which the Treasury may require for the specified purposes; whereas under the UK SI, this has been narrowed to any person " <i>if the Treasury believe that the person may be able to provide the information</i> ".
Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 41(7)(a)(ii) and (c)	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Sch. 1, para. 3(1)(b) and (c)	(c)	<p><b>Low Impact</b></p> <p>Under the UK SI, the basis on which the Treasury may reasonably require information has been expanded to include "<i>detecting or obtaining evidence of the commission of an offence...</i>" (emphasis added), as well as establishing "<i>the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person</i>".</p> <p>This is unlikely to have a material impact on the obligations of financial institutions.</p>
Information Obligations	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 47	The Zimbabwe (Financial Sanctions) Regulations 2009/847, Sch. 1, para. 6  Export Control Order 2008/3231, Art. 43	(c)	<p><b>Low Impact</b></p> <p>In relation to provisions in respect of disclosure of information, the UK SI effectively merges the rights contained in the EU Financial Services SI and the Export Control Order (with several additions) such that the scope of the Secretary of State's, the Treasury's and the Commissioners' powers to disclose information obtained under the relevant parts of the UK SI are now wider than previously, both in terms of the purpose for which such information can be disclosed and to whom.</p> <p>For example, information may be disclosed for any purpose stated in Reg. 4 (i.e. the purposes of the UK SI), and to "<i>any other person where the Secretary of State, the Treasury or the Commissioners (as the case may be) consider that it is appropriate to disclose the information</i>".</p>
Trade Controls	The Zimbabwe (Sanctions) (EU Exit)	Export Control Order 2008/3231, Art. 3	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the export of restricted goods (being military goods and internal repression goods) to, or for use in, Zimbabwe. The EU Regulation covers the export of</p>

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	Regulations 2019/604, Reg. 21	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 3(a)		<p>equipment which can be used for internal repression (see Art. 3(a)) – please note that the EU Regulation (at Annex I) and the UK SI (at Sch. 2) cover slightly different goods when referring to internal repression goods.</p> <p>The prohibition on the export of military goods is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy). It is, however, in line with the general prohibition (subject to exceptions and licensing) on the export of military goods contained in the Export Control Order, Art. 3 (which will remain in force even after Exit Day) and the UK SI provisions will sit alongside the same.</p> <p>The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.</p>
Trade Controls	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 22	Export Control Order 2008/3231, Art. 20	(b)	<p><b>Low Impact</b></p> <p>The UK SI introduces a prohibition on the direct or indirect supply or delivery of restricted goods (being military goods and internal repression goods) from a third country to a place in Zimbabwe, unless that person did not know and had no reasonable cause to suspect that the goods were destined (or ultimately destined) for Zimbabwe.</p> <p>The EU Regulation covers the supply of equipment which can be used for internal repression (see Art. 3(a)) – please note that the EU Regulation (at Annex I) and the UK SI (at Sch. 2) cover slightly different goods when referring to internal repression goods.</p> <p>The prohibition in relation to military goods is not contained in the EU Regulation (consistent with the European Union's Common Security and Defence Policy), but is in line with the general prohibition (subject to exceptions and licensing) contained in the Export Control Order at Art. 20 (and the defence for "no reasonable suspicion" in Art. 34). The Export Control Order prohibits the supply or delivery, an agreement to supply or deliver, and any act calculated to promote the supply or delivery to Zimbabwe (being an "embargoed destination"). The UK SI provisions will sit alongside this.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				The standalone prohibition is unlikely to have a material impact on the obligations of financial institutions subject to any changes in the licensing and exceptions available.
Trade Controls	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Regs. 23 – 24	-	(b)	<p><b>Potentially Medium Impact</b></p> <p>The UK SI introduces at Reg. 23 a new prohibition on directly or indirectly making restricted goods (being military goods and internal repression goods) and restricted technology (military technology and internal repression technology) available to a person connected with Zimbabwe or for use in Zimbabwe; however it is a defence if there is no knowledge, or reasonable cause to suspect that the person was connected with Zimbabwe, or that the goods or technology were for use in Zimbabwe.</p> <p>Similarly, by virtue of Reg. 24, it is also now prohibited to transfer restricted technology (military technology and internal repression technology) to a place in Zimbabwe or to a person connected with Zimbabwe (unless there was no knowledge, or reasonable cause to suspect this was the case). This will be more difficult to screen for.</p> <p>The definition of "<i>connected with</i>" is extremely broad and includes:</p> <ul style="list-style-type: none"> <li>An individual who is, or an associated or combination of individuals who are, <u>ordinarily resident in</u> Zimbabwe,</li> <li>An individual who is, or an associated or combination of individuals who are, <u>located in</u> Zimbabwe,</li> <li>A person, other than an individual, which is incorporated or constituted under the law of Zimbabwe, or</li> <li>A person, other than an individual, which is domiciled in Zimbabwe.</li> </ul> <p>This prohibition does not appear in the EU Financial Services SI, the EU Regulation or the Export</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				Control Order. The prohibition is broadly drafted, particularly the prohibition on "indirect making available" military goods and technology. This could capture financial transactions to facilitate the movement or purchase of targeted goods by someone "connected with" Zimbabwe, or for use in Zimbabwe. Financial institutions will again need to ensure sufficient diligence is conducted on transactions to identify any touchpoint to Zimbabwe, to ensure they can benefit from the defence of having "no reasonable cause to suspect".
Trade Controls	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 25	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 2(a) and 3(b)  Zimbabwe (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004/559, Reg.	(b) and (c)	<p><b>Medium Impact</b></p> <p>The EU Regulation contains prohibitions on:</p> <ul style="list-style-type: none"> <li>– the "<i>grant, [sale], supply or transfer technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types... directly or indirectly to any person, entity or body in, or for use in Zimbabwe</i>"; and</li> <li>– the "<i>grant, [sale], supply or transfer, directly or indirectly, technical assistance related to the equipment [which might be used for internal repression, as set out in the EU Regulation], to any natural or legal person, entity or body in, or for use in Zimbabwe.</i>"</li> </ul> <p>These prohibitions were transposed into UK law by the EU Export Control SI.</p> <p>The new UK SI contains similar prohibitions, subject to two material changes:</p> <ul style="list-style-type: none"> <li>(a) it prohibits the provision of technical assistance to "<i>a person connected with Zimbabwe</i>". As above, this is an extremely broad definition and wider than the scope of a designated person.</li> <li>(b) it does not include the reference to "<i>technical assistance... related to the provision, manufacture, maintenance or use of goods</i>". Therefore this technically applies a narrower prohibition; however, as the definition of "technical assistance" in the UK SI</li> </ul>

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		2(a) and (e).		includes technical support relating to the provision, maintenance and use of the goods or technology, this is unlikely to have any material impact (albeit there may be divergence in interpretation).
Trade Controls	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 26	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 2(b) and 3(c)  Zimbabwe (Sale, Supply, Export, Technical Assistance, Financing and Financial Assistance and Shipment of Equipment) (Penalties and Licences) Regulations 2004/559, Reg. 2(b) and (f)	(a) and (b)	<p><b>Medium Impact</b></p> <p>The UK SI's prohibition on providing financial services and funds related to (i) military goods and technology and (ii) internal repression goods and technology (together, being "restricted goods" or "restricted technology") to persons in, or for use in, Zimbabwe is broader than the equivalent provisions in the EU Regulation and EU Export Control SI. Specifically, there are restrictions on:</p> <p>(1) Directly or indirectly providing, to a person connected with Zimbabwe, financial services in pursuance of or in connection with an arrangement whose object or effect is:</p> <ul style="list-style-type: none"> <li>(a) the export of restricted goods,</li> <li>(b) the direct or indirect supply or delivery of restricted goods,</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person,</li> <li>(d) the transfer of restricted technology, or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology.</li> </ul> <p>(2) Directly or indirectly making funds available to a person connected with Zimbabwe or in pursuance of or in connection with an arrangement mentioned in (1) above.</p> <p>(3) Directly or indirectly providing financial services or funds in pursuance of or in connection with an arrangement whose object or effect is:</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<ul style="list-style-type: none"> <li>(a) the export of restricted goods to, or for use in, Zimbabwe,</li> <li>(b) the direct or indirect supply or delivery of restricted goods to a place in Zimbabwe,</li> <li>(c) directly or indirectly making restricted goods or restricted technology available to a person connected with Zimbabwe or for use in Zimbabwe,</li> <li>(d) the transfer of restricted technology to a person connected with Zimbabwe or for use in Zimbabwe, or</li> <li>(e) the direct or indirect provision of technical assistance relating to restricted goods or restricted technology to a person connected with Zimbabwe or for use in Zimbabwe.</li> </ul> <p>The key differences for financial institutions are as follows:</p> <ul style="list-style-type: none"> <li>(a) as the definition of "connected person" is extremely wide (see above) and this category of persons is broader than designated persons, and will therefore fall outside screening procedures – this is particularly concerning for the prohibition at (2) on "making funds available" to such persons.</li> <li>(b) the UK has merged the concepts in the EU prohibition of "financing and financial assistance" into "financial services", which is non-exhaustively defined in the SAMLA as including insurance-related, banking and other financial services. The EU listed examples of "financial assistance" are all explicitly covered by the SAMLA (that is, loans and export credit insurance) except for grants. It is not clear whether grants will constitute "financial services" but given the wide formulation of the SAMLA definition, this will likely be the case.</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>(c) it was prohibited under the EU Regulation/EU Export Control SI to provide financing or financial assistance for the provision of related brokering services. It appears this prohibition is not explicitly replicated.</p> <p>(d) there is however a defence if the accused did not know and had no reasonable cause to suspect that they were engaged in any of the above prohibited activities. If evidence is adduced which is sufficient to raise an issue with respect to the defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not (see Reg. 30).</p>
Trade Controls	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 27	-	(b)	<p><b>High Impact</b></p> <p>The UK SI introduced new prohibitions on brokering services for arrangements where the object or effect is:</p> <ul style="list-style-type: none"> <li>the direct or indirect supply or delivery of military goods from a third country to a place in Zimbabwe;</li> <li>directly or indirectly making military goods or technology available in a third country for direct or indirect supply or delivery to a person connected with Zimbabwe, or to a place in Zimbabwe;</li> <li>the transfer of, or making available for transfer, military technology from a place in a third country to a person connected with Zimbabwe, or to a place in Zimbabwe;</li> <li>the direct or indirect provision, in a non-UK country, of technical assistance relating to military goods or technology to a person connected with Zimbabwe, or for use in Zimbabwe;</li> <li>the direct or indirect provision, in a non-UK country, of financial services to a person connected with Zimbabwe (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above));</li> </ul>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
				<p>directly or indirectly making funds available, in a non-UK country, to a person connected with Zimbabwe (where the arrangement, or any connected arrangement, is within the scope of Reg. 26 (outlined above)); or</p> <p>the direct or indirect provision of funds, from a non-UK country, where the arrangement or any other connected arrangement is within the scope of Reg. 26 (outlined above).</p> <p>It is a defence if there is no knowledge or reasonable cause to suspect that brokering services were provided in relation to an arrangement mentioned in that paragraph.</p> <p>These prohibitions do not exist in the EU Regulation or the Export Control Order (albeit there may be some overlap with Arts. 21 – 23 of the Export Control Order). The UK SI's definition of "brokering services" is generally broad (covering, amongst other things "<i>the provision of any assistance that in any way promotes or facilitates the arrangement</i>"). This prohibition also covers the provision of funds and financial services in circumstances not previously targeted by the EU, and therefore could capture activities of financial institutions.</p>
Trade Controls	-	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Arts. 2(c) and 3(d)	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contains prohibitions on participating, knowingly and intentionally, in activities the order or effect of which is directly or indirectly to promote the transactions covered by the prohibitions on technical assistance, financial assistance and the sale, supply, transfer or export of internal repression equipment. These prohibitions have not been carried over into the UK SI.</p>
Trade Controls	-	EU Council Regulation	(a)	<p><b>Potentially Medium Impact</b></p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
		314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 4		<p>The EU Regulation contains a derogation from the trade control restrictions contained in Arts. 2 and 3 pursuant to which the competent authorities may authorise:</p> <p>(a) <i>the provision of financing and financial assistance and technical assistance related to:</i></p> <p>(i) <i>non-lethal military equipment intended solely for humanitarian or protective use, or for institution-building programmes of the United Nations, the European Union and the Community;</i></p> <p>(ii) <i>materiel intended for European Union and United Nations crisis-management operations;</i></p> <p>(b) <i>the sale, supply, transfer or export of equipment listed in Annex 1 intended solely for humanitarian or protective use, and the provision of financial assistance, financing and technical assistance related to these transactions.</i></p> <p>This derogation is not carried forward into the UK SI which could have an impact for financial institutions that currently rely on it.</p>
Trade Controls	-	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 4a	(a)	<p><b>Potentially Medium Impact</b></p> <p>The EU Regulation contains a derogation from the trade control restrictions contained in Art. 3 pursuant to which certain competent authorities may authorise "<i>the sale, supply, transfer or export of explosive substances and related equipment as listed in point 4 of Annex 1 and financial and technical assistance, where the explosive substances and related equipment are intended and will be used solely for civilian use in mining and infrastructure projects</i>".</p> <p>This derogation is not carried forward into the UK SI which could have an impact for financial institutions that currently rely on it.</p>

Restrictive Measure / Category	UK SI reference	EU Legislative SI reference	Change to legal obligation	Impact
Trade Controls	-	EU Council Regulation 314/2004 concerning restrictive measures in view of the situation in Zimbabwe, Art. 5	(a)	<p><b>Low Impact</b></p> <p>The EU Regulation contains an exception to the trade control restrictions contained in Arts. 2 and 3 for "<i>protective clothing, including flak jackets and military helmets, temporarily exported to Zimbabwe by United Nations personnel, personnel of the European Union, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel for their personal use only</i>".</p> <p>This exception is not carried forward into the UK SI but this is unlikely to have a significant impact on financial institutions.</p>
Trade Control Licences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 35(4)(b)	The Export Control Order 2008/3231, Art. 26(6)(b)	(c)	<p><b>Low Impact</b></p> <p>Reg. 35(4)(b) provides that trade licences may be of indefinite duration or of a defined duration. However, under the Export Control Order, trade licences may only be "<i>limited so as to expire on a specified date unless renewed</i>". This is potentially beneficial for licence holders as it may decrease the administration associated with licence renewals.</p>
Trade Control Licences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 37(2)	The Export Control Order 2008/3231, Art. 38(1) – (2)	(c)	<p><b>Low Impact</b></p> <p>Pursuant to Reg. 37(2), it is an offence for a person to purport to act under the authority of a trade licence but to fail to comply with any condition of the licence. This offence is similar to the offence under Art. 38(1) of the Export Control Order save that, under Reg. 37(2), there is no carve out from the offence where the licence is modified after completion of the act authorised. This means that the UK SI contains a broader prohibition.</p>
Defences	The Zimbabwe (Sanctions) (EU Exit) Regulations 2019/604, Reg. 30(2)	-	(b)	<p><b>Medium Impact</b></p> <p>There is a new reverse burden of proof where a Defendant adduces sufficient evidence to raise an issue with respect to the defence. The defence will be satisfied unless the prosecution proves, beyond a reasonable doubt, that it is not.</p> <p>This will make it easier for financial institutions to rely upon defences.</p>

This review does not constitute legal advice and should not be relied upon by any parties.

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## Appendix 1: Legislation table.

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Afghanistan	<a href="https://www.legislation.gov.uk/uksi/2020/948/contents/made">https://www.legislation.gov.uk/uksi/2020/948/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2001/396/contents/made">http://www.legislation.gov.uk/uksi/2001/396/contents/made</a> <a href="https://www.legislation.gov.uk/eur/2011/753/contents">https://www.legislation.gov.uk/eur/2011/753/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>
Belarus	<a href="http://www.legislation.gov.uk/uksi/2019/600/contents/made">http://www.legislation.gov.uk/uksi/2019/600/contents/made</a>	<a href="https://www.legislation.gov.uk/uksi/2013/164/contents">https://www.legislation.gov.uk/uksi/2013/164/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Bosnia & Herzegovina	<a href="http://www.legislation.gov.uk/uksi/2020/608/contents/made">http://www.legislation.gov.uk/uksi/2020/608/contents/made</a>	<a href="https://www.legislation.gov.uk/eudn/2011/173/article/2">https://www.legislation.gov.uk/eudn/2011/173/article/2</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Burma	<a href="https://www.legislation.gov.uk/uksi/2019/136/contents/made">https://www.legislation.gov.uk/uksi/2019/136/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2013/1096/contents/made">http://www.legislation.gov.uk/uksi/2013/1096/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>

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Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Burundi	<a href="http://www.legislation.gov.uk/uksi/2019/1142/contents/made">http://www.legislation.gov.uk/uksi/2019/1142/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2015/1740/contents">http://www.legislation.gov.uk/uksi/2015/1740/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Central African Republic	<a href="http://www.legislation.gov.uk/uksi/2020/616/contents/made">http://www.legislation.gov.uk/uksi/2020/616/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2014/587/contents">http://www.legislation.gov.uk/uksi/2014/587/contents</a> <a href="https://www.legislation.gov.uk/eur/2014/224/contents">https://www.legislation.gov.uk/eur/2014/224/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>
Chemical Weapons	<a href="http://www.legislation.gov.uk/uksi/2019/618/contents/made">http://www.legislation.gov.uk/uksi/2019/618/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2018/1090/contents/made">http://www.legislation.gov.uk/uksi/2018/1090/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
China		<a href="https://www.gov.uk/guidance/arms-embargo-on-china">https://www.gov.uk/guidance/arms-embargo-on-china</a>	
Cyber Attacks	<a href="http://www.legislation.gov.uk/uksi/2020/597/contents/made">http://www.legislation.gov.uk/uksi/2020/597/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2019/956/contents/made">http://www.legislation.gov.uk/uksi/2019/956/contents/made</a>  <a href="https://www.legislation.gov.uk/uksi/2020/281/contents/made">https://www.legislation.gov.uk/uksi/2020/281/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Democratic Republic of the Congo	<a href="http://www.legislation.gov.uk/uksi/2019/433/contents/made">http://www.legislation.gov.uk/uksi/2019/433/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2012/1511/contents">http://www.legislation.gov.uk/uksi/2012/1511/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>
Egypt	<a href="#">The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (legislation.gov.uk)</a>	<a href="http://www.legislation.gov.uk/uksi/2011/887/contents">http://www.legislation.gov.uk/uksi/2011/887/contents</a>	
Eritrea	<a href="https://www.legislation.gov.uk/uksi/2019/184/made">https://www.legislation.gov.uk/uksi/2019/184/made</a>	<a href="https://www.legislation.gov.uk/uksi/2019/184/made">https://www.legislation.gov.uk/uksi/2019/184/made</a>	
Global Human Rights	<a href="https://www.legislation.gov.uk/uksi/2020/680/contents/made">https://www.legislation.gov.uk/uksi/2020/680/contents/made</a>  <a href="https://www.legislation.gov.uk/uksi/2020/773/contents/made">https://www.legislation.gov.uk/uksi/2020/773/contents/made</a>  <a href="https://www.legislation.gov.uk/uksi/2020/774/contents/made">https://www.legislation.gov.uk/uksi/2020/774/contents/made</a>		

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Republic of Guinea	<a href="http://www.legislation.gov.uk/uksi/2019/1145/contents/made">http://www.legislation.gov.uk/uksi/2019/1145/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2012/1508/contents">http://www.legislation.gov.uk/uksi/2012/1508/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Guinea Bissau	<a href="http://www.legislation.gov.uk/uksi/2019/554/contents/made">http://www.legislation.gov.uk/uksi/2019/554/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2012/1301/contents">http://www.legislation.gov.uk/uksi/2012/1301/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Haiti		<a href="https://www.legislation.gov.uk/eur/1994/1264/adopted">https://www.legislation.gov.uk/eur/1994/1264/adopted</a>  <a href="http://www.legislation.gov.uk/uksi/1994/1323/contents/made">http://www.legislation.gov.uk/uksi/1994/1323/contents/made</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>
Immigration	<a href="https://www.legislation.gov.uk/uksi/2020/1101/contents/made">https://www.legislation.gov.uk/uksi/2020/1101/contents/made</a>		

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Iran (Human rights)	<a href="http://www.legislation.gov.uk/uksi/2019/134/contents/made">http://www.legislation.gov.uk/uksi/2019/134/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2011/1129/contents">http://www.legislation.gov.uk/uksi/2011/1129/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Iran (WMD)	<a href="http://www.legislation.gov.uk/uksi/2019/461/contents/made">http://www.legislation.gov.uk/uksi/2019/461/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2011/2775/contents/made">http://www.legislation.gov.uk/uksi/2011/2775/contents/made</a>  <a href="http://www.legislation.gov.uk/uksi/2011/2985/contents/made">http://www.legislation.gov.uk/uksi/2011/2985/contents/made</a>  <a href="http://www.legislation.gov.uk/uksi/2016/378/contents/made">http://www.legislation.gov.uk/uksi/2016/378/contents/made</a>  <a href="http://www.legislation.gov.uk/uksi/2016/36/contents/made">http://www.legislation.gov.uk/uksi/2016/36/contents/made</a>  <a href="http://www.legislation.gov.uk/uksi/2012/2904/contents/made">http://www.legislation.gov.uk/uksi/2012/2904/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>
Iraq	<a href="https://www.legislation.gov.uk/uksi/2020/707/contents/made">https://www.legislation.gov.uk/uksi/2020/707/contents/made</a>	<a href="https://www.legislation.gov.uk/eur/1992/3541/contents">https://www.legislation.gov.uk/eur/1992/3541/contents</a>  <a href="http://www.legislation.gov.uk/uksi/2012/1489/contents">http://www.legislation.gov.uk/uksi/2012/1489/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Lebanon (UN)		<a href="http://www.legislation.gov.uk/uksi/2005/3432/contents/made">http://www.legislation.gov.uk/uksi/2005/3432/contents/made</a>	<a href="#">The Sanctions (Overseas Territories) (Amendment) Order 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>
Lebanon (EU)	<a href="http://www.legislation.gov.uk/uksi/2020/612/regulation/6/made">http://www.legislation.gov.uk/uksi/2020/612/regulation/6/made</a>  <a href="https://www.legislation.gov.uk/uksi/2020/617/contents/made">https://www.legislation.gov.uk/uksi/2020/617/contents/made</a>  <a href="https://www.legislation.gov.uk/uksi/2020/1124/contents/made">https://www.legislation.gov.uk/uksi/2020/1124/contents/made</a>	<a href="https://www.legislation.gov.uk/eur/2006/1412/contents">https://www.legislation.gov.uk/eur/2006/1412/contents</a>  <a href="http://www.legislation.gov.uk/uksi/2012/1517/contents">http://www.legislation.gov.uk/uksi/2012/1517/contents</a>	<a href="#">The Sanctions (Overseas Territories) (Amendment) Order 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>
Libya (EU)	<a href="#">The Libya (Sanctions) (EU Exit) Regulations 2020 (legislation.gov.uk)</a>	<a href="https://www.legislation.gov.uk/eur/1993/3275/contents">https://www.legislation.gov.uk/eur/1993/3275/contents</a>  <a href="http://www.legislation.gov.uk/uksi/2011/548/contents">http://www.legislation.gov.uk/uksi/2011/548/contents</a>  <a href="http://www.legislation.gov.uk/uksi/2016/45/contents">http://www.legislation.gov.uk/uksi/2016/45/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>  <a href="#">The Sanctions (Overseas Territories) (Amendment) Order 2019</a>
Mali	<a href="https://www.legislation.gov.uk/uksi/2020/705/contents/made">https://www.legislation.gov.uk/uksi/2020/705/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2017/972/contents">http://www.legislation.gov.uk/uksi/2017/972/contents</a>	

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Mis-appropriation	<a href="http://www.legislation.gov.uk">The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (legislation.gov.uk)</a>		Covers Ukraine, Tunisia and Egypt mis-appropriation sanctions.
Montenegro		<a href="http://www.legislation.gov.uk/uksi/1992/1302/contents/made">http://www.legislation.gov.uk/uksi/1992/1302/contents/made</a>	
Nicaragua	<a href="http://www.legislation.gov.uk/uksi/2020/610/contents/made">http://www.legislation.gov.uk/uksi/2020/610/contents/made</a>	<a href="https://www.legislation.gov.uk/uksi/2020/279/contents/made">https://www.legislation.gov.uk/uksi/2020/279/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2019/1353/contents/made">http://www.legislation.gov.uk/uksi/2019/1353/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
North Korea	<a href="https://www.legislation.gov.uk/uksi/2019/411/contents/made">https://www.legislation.gov.uk/uksi/2019/411/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2006/2958/contents/made">http://www.legislation.gov.uk/uksi/2006/2958/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>
		<a href="http://www.legislation.gov.uk/uksi/2007/1334/contents/made">http://www.legislation.gov.uk/uksi/2007/1334/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019</a>
		<a href="http://www.legislation.gov.uk/uksi/2009/3213/contents/made">http://www.legislation.gov.uk/uksi/2009/3213/contents/made</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>
		<a href="http://www.legislation.gov.uk/uksi/2013/1877/contents">http://www.legislation.gov.uk/uksi/2013/1877/contents</a>	
		<a href="http://www.legislation.gov.uk/uksi/2016/634/contents/made">http://www.legislation.gov.uk/uksi/2016/634/contents/made</a>	
		<a href="http://www.legislation.gov.uk/uksi/2016/1119/contents/made">http://www.legislation.gov.uk/uksi/2016/1119/contents/made</a>	
		<a href="http://www.legislation.gov.uk/uksi/2016/1214/contents/made">http://www.legislation.gov.uk/uksi/2016/1214/contents/made</a>	
		<a href="http://www.legislation.gov.uk/uksi/2017/218/contents">http://www.legislation.gov.uk/uksi/2017/218/contents</a>	
		<a href="http://www.legislation.gov.uk/uksi/2017/319/contents/made">http://www.legislation.gov.uk/uksi/2017/319/contents/made</a>	

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Russia	<a href="http://www.legislation.gov.uk/uksi/2019/855/contents/made">http://www.legislation.gov.uk/uksi/2019/855/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2015/1933/contents/made">http://www.legislation.gov.uk/uksi/2015/1933/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2015/213/contents/made">http://www.legislation.gov.uk/uksi/2015/213/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2014/2932/contents/made">http://www.legislation.gov.uk/uksi/2014/2932/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2014/2919/contents/made">http://www.legislation.gov.uk/uksi/2014/2919/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2014/2710/contents/made">http://www.legislation.gov.uk/uksi/2014/2710/contents/made</a> <a href="http://www.legislation.gov.uk/uksi/2014/2357/contents">http://www.legislation.gov.uk/uksi/2014/2357/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Serbia		<a href="https://www.legislation.gov.uk/eur/1994/1733/contents">https://www.legislation.gov.uk/eur/1994/1733/contents</a> <a href="http://www.legislation.gov.uk/uksi/1992/1419/contents/made">http://www.legislation.gov.uk/uksi/1992/1419/contents/made</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Somalia	<a href="http://www.legislation.gov.uk/uksi/2020/642/contents/made">http://www.legislation.gov.uk/uksi/2020/642/contents/made</a>	<a href="https://www.legislation.gov.uk/uksi/2002/2628/contents/made">https://www.legislation.gov.uk/uksi/2002/2628/contents/made</a> <a href="https://www.legislation.gov.uk/eur/2003/147/contents">https://www.legislation.gov.uk/eur/2003/147/contents</a> <a href="https://www.legislation.gov.uk/eur/2010/356/contents">https://www.legislation.gov.uk/eur/2010/356/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>
South Sudan	<a href="http://www.legislation.gov.uk/uksi/2019/438/contents/made">http://www.legislation.gov.uk/uksi/2019/438/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2011/2925/contents">http://www.legislation.gov.uk/uksi/2011/2925/contents</a> <a href="http://www.legislation.gov.uk/uksi/2014/3258/contents">http://www.legislation.gov.uk/uksi/2014/3258/contents</a> <a href="http://www.legislation.gov.uk/uksi/2015/1361/contents">http://www.legislation.gov.uk/uksi/2015/1361/contents</a>	<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>
Sudan	<a href="https://www.legislation.gov.uk/uksi/2020/753/introduction/made">https://www.legislation.gov.uk/uksi/2020/753/introduction/made</a>	<a href="https://www.legislation.gov.uk/eur/2014/747/contents">https://www.legislation.gov.uk/eur/2014/747/contents</a> <a href="http://www.legislation.gov.uk/uksi/2014/1826/contents">http://www.legislation.gov.uk/uksi/2014/1826/contents</a> <a href="http://www.legislation.gov.uk/uksi/2014/3258/contents">http://www.legislation.gov.uk/uksi/2014/3258/contents</a>	<a href="#">The Sanctions (Amendment) (EU Exit) Regulations 2019</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Syria	<a href="https://www.legislation.gov.uk/uksi/2019/792/contents/made">https://www.legislation.gov.uk/uksi/2019/792/contents/made</a>	<a href="http://www.legislation.gov.uk/uksi/2012/129/contents">http://www.legislation.gov.uk/uksi/2012/129/contents</a>	<a href="#">The Sanctions (Overseas Territories) (Amendment) Order 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>
Syria (UN)	<a href="https://www.legislation.gov.uk/uksi/2020/1233/made">https://www.legislation.gov.uk/uksi/2020/1233/made</a>		
Terrorism	<a href="https://www.legislation.gov.uk/uksi/2019/577/contents/made">https://www.legislation.gov.uk/uksi/2019/577/contents/made</a>  <a href="https://www.legislation.gov.uk/uksi/2019/573/contents/made">https://www.legislation.gov.uk/uksi/2019/573/contents/made</a>		<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Terrorism (ISIL)	<a href="https://www.legislation.gov.uk/uksi/2019/466/contents/made">https://www.legislation.gov.uk/uksi/2019/466/contents/made</a>		<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No.3) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2019</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) Regulations 2020</a>
Tunisia	<a href="#">The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (legislation.gov.uk)</a>	<a href="https://www.legislation.gov.uk/uksi/2011/888/contents">https://www.legislation.gov.uk/uksi/2011/888/contents</a>	
Turkey	<a href="#">The Unauthorised Drilling Activities in the Eastern Mediterranean (Sanctions) (EU Exit) Regulations 2020</a>	<a href="#">The Turkey (Asset-Freezing) Regulations 2019 (legislation.gov.uk)</a>	
Ukraine	<a href="#">The Misappropriation (Sanctions) (EU Exit) Regulations 2020 (legislation.gov.uk)</a>		<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>
Venezuela	<a href="https://www.legislation.gov.uk/uksi/2019/135/contents/made">https://www.legislation.gov.uk/uksi/2019/135/contents/made</a>		<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a>  <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>

Restrictive Measure	UK SI reference	EU Legislative SI reference	Notes /Amendment SI
Yemen	<a href="https://www.legislation.gov.uk/uksi/2020/1278/contents/made">https://www.legislation.gov.uk/uksi/2020/1278/contents/made</a>		
Zimbabwe	<a href="https://www.legislation.gov.uk/uksi/2019/604/contents/made">https://www.legislation.gov.uk/uksi/2019/604/contents/made</a>		<a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2) Regulations 2020</a> <a href="#">The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 4) Regulations 2020</a>

