Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2015 No. 1361

CRIMINAL LAW

The South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015

Made - - - -	*8th June 2015*
	at 11.30 a.m. on 9th
Laid before Parliament	*June 2015*
	at 12.00 p.m. on 9th
Coming into force - -	*June 2015*

The Treasury are designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to restrictive measures against persons or bodies listed by an international organisation.

These Regulations make provision for a purpose mentioned in section 2(2) of that Act and it appears to the Treasury that it is expedient for any reference to an Annex to Council Regulation (EU) No. 2015/735 of 7th May 2015 [F3] concerning restrictive measures in view of the situation in South Sudan to be construed as a reference to that Annex as amended from time to time.

The Treasury, in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972, make the following Regulations.

F1 S.I. 2010/1834.

F2 1972 c.68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)(a)** and the European Union (Amendment) Act 2008 (c.7), **Sch**edule, Part 1. Paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006, section 28 and amended by S.I. 2007/1388 and the European Union (Amendment) Act 2008, Schedule, Part 1.

F3 OJ L 117 08.05.2015, p.13.

PART 1

General

Citation, commencement and application

1.—(1) These Regulations may be cited as the South Sudan (European Union Financial Sanctions) (No. 2) Regulations 2015 and shall come into force at 12.00 p.m. on 9th June 2015.

(2) An offence under these Regulations may be committed by conduct wholly or partly outside the United Kingdom by—

(a) a UK national, or

(b) a body incorporated or constituted under the law of any part of the United Kingdom.

(3) In paragraph (2)—

"conduct" includes acts and omissions;

"UK national" means—

(a) a British citizen,

(b) a British overseas territories citizen who acquired their citizenship from a connection with Gibraltar, or

(c) a British subject under Part 4 of the British Nationality Act 1981 (British subjects) [F4] with the right of abode in the United Kingdom.

F4 1981 c.61. Part 4 was amended by the British Overseas Territories Act 2002 (c.8), **section 1(1)(b)** and the Nationality, Immigration and Asylum Act 2002 (c.41), **sections 15** and 161, Schedule 2, paragraph 1(i) and Schedule 9.

Interpretation

2.—(1) In these Regulations—

"the 2000 Act" means the Financial Services and Markets Act 2000 [F5];

"the Council Regulation" means Council Regulation (EU) No. 2015/735 of 7th May 2015 concerning restrictive measures in view of the situation in South Sudan, and a reference to an Annex to that Regulation is to be construed as a reference to that Annex as amended from time to time;

"designated person" means a person, entity or body listed in Annex I or Annex II to the Council Regulation;

"document" includes information recorded in any form;

"relevant institution" means—

(a) a person who has permission under Part 4A of the 2000 Act (permission to carry on regulated activities) [F6];

(b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to the 2000 Act (EEA passport rights) [F7] which has permission under paragraph 15 of that Schedule [F8] (as a result of qualifying for authorisation under paragraph 12 of that Schedule [F9]) 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.

(2) The definition of "relevant institution" in paragraph (1) must be read with—

(a) section 22 [F10] of the 2000 Act (regulated activities),

(b) any relevant order under that section [F11], and

(c) Schedule 2 [F12] to that Act (regulated activities).

(3) Any expression used both in these Regulations and in the Council Regulation has, in these Regulations, the meaning that it bears in the Council Regulation.

F5 2000 c.8.
F6 Part 4A was inserted by the Financial Services Act 2012 (c.21), **section 11(2)** and amended most recently by S.I. 2013/3115.
F7 As amended by S.I. 2006/3221 and S.I. 2013/3115.
F8 As amended by S.I. 2003/2066, **S.I**. 2007/3253, S.I. 2012/1906 and S.I. 2013/1881.
F9 As amended by S.I. 2007/126, **S.I**. 2007/3253 and S.I. 2012/1906.
F10 Section 22 was amended by the Financial Services Act 2012 (c.21), **section 7(1)**.
F11 S.I. 2001/544 as amended, most recently by S.I. 2014/1740.
F12 Schedule 2 was amended by the Dormant Bank and Building Society Accounts Act 2008 (c.31), section 15, **Schedule 2**, paragraph 1, the Regulation of Financial Services (Land Transactions) Act 2005 (c.24), **section 1**, the Financial Services Act 2012, section 7(2) to (5) and section 8 and by S.I. 2013/1881.

PART 2

Funds and Economic Resources

Freezing of funds and economic resources

3.—(1) A person ("P") must not deal with funds or economic resources belonging to, or owned, held or controlled by, a designated person if P knows, or has reasonable cause to suspect, that P is dealing with such funds or economic resources.

(2) In paragraph (1) "deal with" means—

(a) in relation to funds—

(i) use, alter, move, allow access to or transfer;

(ii) deal with the funds in any other way that would result in any change in their volume, amount, location, ownership, possession, character or destination; or

(iii) make any other change that would enable their use, including portfolio management; and

(b) in relation to economic resources, exchange, or use in exchange, for funds, goods or services.

(3) Paragraph (1) is subject to regulation 9.

Making funds available to a designated person

4.—(1) A person ("P") must not make funds available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) Paragraph (1) is subject to regulations 8 and 9.

Making funds available for the benefit of a designated person

5.—(1) A person ("P") must not make funds available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the funds so available.

(2) For the purposes of this regulation—

(a) funds are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to regulations 8 and 9.

Making economic resources available to a designated person

6.—(1) A person ("P") must not make economic resources available, directly or indirectly, to a designated person if P knows, or has reasonable cause to suspect—

(a) that P is making the economic resources so available, and

(b) that the designated person would be likely to exchange the economic resources, or use them in exchange for funds, goods or services.

(2) Paragraph (1) is subject to regulation 9.

Making economic resources available for the benefit of a designated person

7.—(1) A person ("P") must not make economic resources available to any person for the benefit of a designated person if P knows, or has reasonable cause to suspect, that P is making the economic resources so available.

(2) For the purposes of this regulation—

(a) economic resources are made available for the benefit of a designated person only if that person thereby obtains, or is able to obtain, a significant financial benefit, and

(b) "financial benefit" includes the discharge, in whole or in part, of a financial obligation for which the designated person is wholly or partly responsible.

(3) Paragraph (1) is subject to regulation 9.

Credits to a frozen account

8.—(1) The prohibitions in regulations 4 and 5 are not contravened by a person who credits a frozen account with a relevant institution which is held or controlled (directly or indirectly) by a designated person with—

(a) interest or other earnings due on the account, or

(b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) The prohibitions in regulations 4 and 5 are not contravened by a person who credits a frozen account with a relevant institution which is held or controlled (directly or indirectly) by a person listed in Annex II of the Council Regulation with payments due under judicial, administrative or arbitral decisions rendered in a European Union Member State or enforceable in the Member State concerned.

(3) The prohibitions in regulations 4 and 5 on making funds available do not prevent a relevant institution from crediting a frozen account where it receives funds transferred to the account.

(4) A relevant institution must inform the Treasury without delay if it credits a frozen account in accordance with paragraph (1)(b), (2) or (3).

Licences

9.—(1) The prohibitions in regulations 3 to 7 do not apply to anything done under the authority of a licence granted by the Treasury.

(2) A licence must specify the acts authorised by it and may be—

(a) general or granted to a category of persons or to a particular person;

(b) subject to conditions;

(c) of indefinite duration or subject to an expiry date.

(3) The Treasury may vary or revoke a licence at any time.

(4) On the grant, variation or revocation of a licence, the Treasury must—

(a) in the case of a licence granted to a particular person, give written notice of the grant, variation or revocation to that person,

(b) in the case of a general licence or a licence granted to a category of persons, take such steps as the Treasury consider appropriate to publicise the grant, variation or revocation of the licence.

(5) A person commits an offence who, for the purpose of obtaining a licence, 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.

(6) A person who purports to act under the authority of a licence but who fails to comply with any condition included in the licence commits an offence.

PART 3

Offences

Contravention and circumvention of prohibitions

10.—(1) A person who contravenes any of the prohibitions in regulations 3 to 7 commits an offence.

(2) A person commits an offence who intentionally participates in activities knowing that the object or effect of them is (whether directly or indirectly)—

(a) to circumvent any of the prohibitions in regulations 3 to 7, or

(b) to enable or facilitate the contravention of any such prohibition or requirement.

Officers of a body corporate etc.

11.—(1) Where an offence under these Regulations committed by a body corporate—

(a) is committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, or

(b) is attributable to any neglect on the part of any such person,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Paragraph (1) also applies in relation to a body that is not a body corporate, with the substitution for the reference to a director of the body of a reference—

(a) in the case of a partnership, to a partner;

(b) in the case of an unincorporated body other than a partnership—