

# EU Adopts 10th Set of Sanctions Against Russia and Strengthens Enforcement and Anti-Circumvention Measures

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03 / 23 / 23

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**Editor's note:** *This client alert has been updated to reflect new developments from 13 April 2023.*

The European Union (EU)'s tenth package of sanctions against Russia, adopted 25 February 2023, imposed an asset freeze against 121 individuals and entities<sup>1</sup> and expanded the scope of sectoral sanctions.<sup>2</sup>

The EU has also stressed enforcement and anti-circumvention measures recently. Notably, the EU Sanctions Envoy convened the first Sanctions Coordinators Forum to ensure that EU sanctions are implemented fully and effectively by EU member states and to strengthen international cooperation with a broad coalition of international allies on sanctions enforcement.<sup>3</sup> Additionally, the Russian Elites, Proxies, and Oligarch (REPO) Task Force issued guidance on sanctions evasion on 9 March 2023.<sup>4</sup>

The EU's tenth package of sanctions follows the EU's recent implementation of two price caps for seaborne petroleum products, including fuel oils, which originate in or are exported from Russia to non-EU countries.<sup>5</sup> The first price cap is set at \$45 per barrel and relates to petroleum products traded at a discount to crude oil (discount crude oil) and the second price cap is set at \$100 and relates to petroleum products traded at a premium to crude oil (premium to crude oil). The price caps entered into force on 5 February 2023. The EU's earlier oil price cap of \$60 per barrel for Russian crude oil and petroleum oils, which took effect 5 December 2022, remains in force.<sup>6</sup>

The new EU asset freeze measures entered into force on February 25, 2023, and the sectoral sanctions took effect on February 26, 2023.<sup>7</sup>

Here are the key aspects to note:

- An asset freeze was implemented against 121 individuals and entities, including three additional Russian banks, and it imposed an asset freeze against a Dubai-based

<sup>1</sup> See Council Regulation (EU) 2023/426 of 25 February 2023 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. See also Council Implementing Regulation (EU) 2023/429 of 25 February 2023 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. **UPDATE: Additionally, on 13 April 2023, the EU imposed an asset freeze against the Wagner Group and RIA FAN pursuant to Council Implementing Regulation (EU) 2023/755 implementing Regulation (EU) 269/2014.**

<sup>2</sup> See Council Regulation (EU) 2023/427 of 25 February 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>3</sup> See EU Commission, [Statement by EU Sanctions Envoy David O'Sullivan on the first Sanctions Coordinators Forum](#), 23 February 2023.

<sup>4</sup> See [Global Advisory on Russian Sanctions Evasion Issued Jointly by the Multilateral REPO Task Force](#), 9 March 2023.

<sup>5</sup> See Council Regulation (EU) 2023/250 of 4 February 2023, amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. See also Commission Implementing Regulation (EU) 2023/251 of 4 February 2023 amending Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. See also Council Decision (CFSP) 2023/252 of 4 February 2023 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>6</sup> See our 20 December 2022 article, "[EU and UK Price Cap on Russian Crude Oil](#)," and our 12 December 2022 article, "[Price Cap on Russian Crude Oil Becomes Effective](#)" (U.S. price cap).

<sup>7</sup> This client alert is for informational purposes only and does not constitute legal advice. Complex assessments often have to be made as to which sanctions regime applies in any given instance, given the multinational touch points of many entities and individuals. In that regard, given the complex and dynamic nature of these sanctions regimes, there may be developments not captured in this summary. Moreover, while the summary was accurate when written, it may become inaccurate over time given developments. For all of these reasons, you should consult with a qualified attorney before making any judgments relating to sanctions, as there are potentially severe consequences of failing to adhere fully to sanctions restrictions.

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entity, which the EU Commission suspects is helping Russia circumvent sanctions on oil exports.

- New trade restrictions were introduced, including export bans on sensitive dual-use and advanced technologies, as well as on goods that is deemed to be easily redirectable to the Russian military. The EU also imposed an import ban on additional high-revenue goods, including bitumen and synthetic rubber.
- Ninety-six entities connected to Russia's military and industrial complex were added to Annex IV of Council Regulation (EU) 833/2014 (Regulation 833), including Iranian drone manufacturers. These entities are subject to stricter export restrictions with respect to dual-use goods and technology, and advanced technology items.
- Regulation 833 now prohibits Russian nationals or persons residing in Russia from serving on the governing bodies of EU critical infrastructure companies, such as electricity grids or gas providers.
- Russian nationals and entities are banned from booking gas capacity in gas storage facilities in the EU. Liquefied natural gas (LNG) is excluded from the ban.
- The media ban was extended to additional Russian media outlets.
- A transit ban was imposed on dual-use goods and advanced technology and firearms, which prohibits EU operators from exporting these goods to third countries if such goods transit through Russia.
- New reporting obligations were imposed under Council Regulation (EU) 269/2014 (Regulation 269), which require, among other things, that EU operators to report information on frozen assets and assets that should be frozen.
- Regulation 833 provides a derogation allowing EU businesses to obtain authorization to provide certain business services that are restricted under the EU sanctions if those services are strictly necessary for the divestment from or the wind-down of business activities in Russia.
- Separately, the EU endorsed an advisory developed by a multinational task force setting forth common methods of evading Russian sanctions that businesses should be aware of, and also issues recommendations to mitigate the risk of exposure to such evasion.

## Asset Freezes

The EU has imposed an asset freeze against Alfa-Bank JSC, public joint-stock company Rosbank, Tinkoff Bank JSC, the National Wealth Fund of the Russian Federation and the Russian National Reinsurance Company JSC. In addition, pursuant Article 3(1)(h) of Regulation 269, the EU has imposed asset freeze

restrictions against a Dubai-based ship management company that the Commission suspects is helping Russia circumvent sanctions on oil exports.

Under Regulation 269, EU operators are required to freeze all funds and economic resources belonging to, owned, held or controlled by the listed entities. EU operators are also prohibited from making any funds or economic resources available, directly or indirectly, to or for the benefit of the listed entities.

Approximately 1,473 individuals and 207 entities are now subject to an asset freeze in the EU, according to the EU. Under EU rules, a non-listed entity is subject to asset-freeze restrictions if it is owned, more than 50% by one or more listed persons, or if it is otherwise controlled (either de jure or de facto) by a listed person. The EU guidance provides that EU operators should take into account the aggregate ownership of an entity to determine whether a non-listed entity is subject to an EU asset freeze.

## Trade Restrictions Expanded

### Export Restrictions on Sensitive Dual-Use Goods and Technology, and Advanced Technology Items

A key aspect of the EU sanctions regime against Russia has been trade restrictions on listed goods and technology. The EU extended the scope of the restrictions on the direct or indirect sale, supply, transfer or export of dual-use goods and technology, and advanced technology items, to or for use in Russia to include items that are deemed to be particularly sensitive dual-use and advanced technologies. That determination was made based on information obtained from Ukraine, EU member states and the EU's international partners. These items include electronic components used in weapons systems (e.g., drones, missiles, helicopters and other vehicles), as well as rare-earth and compounds, electronic integrated circuits and thermographic cameras, among others.

The EU has also banned the exports of other items that are considered to be easily redirectable to the Russian military, such as heavy trucks (and their spare parts), construction goods, goods that are critical to the functioning and enhancement of Russian industrial capacity (e.g., electronics, machine parts, pumps etc.), and complete industrial plants.

### Import Restrictions on High-Revenue Goods

The list of goods that generate significant revenue for Russia was expanded to include bitumen and related materials like asphalt, petroleum coke, synthetic rubber and carbon blacks. EU operators are prohibited from directly or indirectly purchasing, importing or transferring the covered items.

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## Additional Entities Subject to Stricter Export Restrictions

Ninety-six entities connected to Russia's military and industrial complex were added to Annex IV of Regulation 833. Those entities are therefore subject to stricter export restrictions with respect to dual-use goods and technology, and advanced technology items. The newly listed entities notably include certain Iranian manufacturers of unmanned aerial vehicles (UAVs).

## Aviation and Space Industry

The export ban covering goods and technology suited for use in the aviation and space industry was extended to include turbojets and turbo-propellers (and their parts).

## Public Security Measures

### Ban on Russian Nationals Serving on Governing Bodies of EU Critical Infrastructure Companies

Under Regulation 833, Russian nationals or persons residing in Russia are prohibited from holding any posts in the governing bodies of the owners or operators of critical infrastructures, European critical infrastructures and critical entities. The Commission particularly cited companies such as electricity grids or gas providers as falling within the scope of the ban, which will take effect on 27 March 2023.<sup>8</sup>

Per Regulation 833, Russia's influence in such infrastructure and entities could jeopardize their well-functioning and ultimately constitute a hazard for the provision of essential services to European citizens.

The ban does not apply to EU nationals or citizens of a country member of the European Economic Area or Switzerland.

## Natural Gas Storage Ban

Regulation 833 also prohibits EU operators from providing natural gas storage to:

- i. Russian nationals or persons residing in Russia, or to legal entities established in Russia;

- ii. legal entities whose proprietary rights are directly or indirectly owned more than 50% by a person or entity described in (i); or
- iii. a natural or legal person acting on behalf or at the direction of a person or entity described in (i) or (ii).

Storage capacity is defined as any combination of space, injectability and deliverability.<sup>9</sup> The prohibition does not apply to the part of liquefied natural gas (LNG) facilities used for storage.<sup>10</sup>

## Media Ban Extended to Additional Russian Media Outlets

The EU extended the broadcasting licence suspension (media ban) in the EU to cover the Russian state-owned RT Arabic and Sputnik Arabic. Regulation 833 prohibits EU operators from broadcasting content and facilitating or contributing by any means to those broadcast services of the covered entities. Moreover, Regulation 833 imposes a prohibition on advertising any goods or services on the banned media outlets by any means.

## Anti-Circumvention Measures and Reporting Obligations

### Transit Ban

To minimize the risk of circumvention of EU sanctions rules, Regulation 833 prohibits EU operators from exporting dual-use goods and technology, as well as firearms, their parts and essential components and ammunition, to non-EU countries if the covered goods transit through Russia.

### Notification Requirement for Private Flights

Regulation 833 now requires aircraft operators of non-scheduled flights (*i.e.*, private flights) between Russia and the EU, whether operated directly or via a third country, to notify all relevant information concerning the flight to their competent EU authorities at least 48 hours in advance.

<sup>8</sup> For further information on and the definitions of critical infrastructures, European critical infrastructures and critical entities, see Council Directive 2008/114/EC of 8 December 2008 on the identification and designation of European critical infrastructures and the assessment of the need to improve their protection, Article 2(a), O.J. (L 345) 77; see also *id.*, Article 2(b), O.J. (L 345) 77; Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC, Article 2(1), O.J. (L 333) 176; and the Annex of Directive (EU) 2022/2557 O.J. (L 333) 193.

<sup>9</sup> See Regulation (EC) 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005, Article 2(1)(28), O.J. (L 211) 36.

<sup>10</sup> See Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, Article 2(9), which defines "storage facility" as "a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions." O.J. (L 211) 94.

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## Reporting Obligations Under Regulation 269

The EU further reinforced the reporting obligations of EU persons under Regulation 269. EU persons are now required to report to national competent authorities information on:

- funds and economic resources frozen pursuant to Article 2 of Regulation 269.
- funds and economic resources in the EU that belong to, or are owned, held or controlled by persons or entities subject to an EU asset freeze but that are not yet treated as frozen by such EU persons.
- funds and economic resources in the EU belonging to, or owned, held, or controlled by natural or legal persons, entities or bodies listed in Annex I and that have been subject to any move, transfer, alteration, use of, access to or dealing (as defined by Regulation 269) in the two weeks prior to the person or entity being listed in Annex I of Regulation 269. EU persons are required to notify their national competent authority within two weeks of acquiring the relevant information.

The reporting obligations cover the following information on funds and economic resources frozen pursuant to Regulation 269:

- i. information identifying the natural or legal persons, entities or bodies owning, holding or controlling the frozen funds and economic resources, including their name, address and VAT registration or tax identification number;
- ii. the amount or market value of such funds or economic resources at the date of reporting and at the date of freezing; and,
- iii. the types of funds, broken down according to the categories defined by Regulation 269, as well as crypto-assets and other relevant categories, and an additional category corresponding to economic resources (as defined by the regulation). For each of those categories and where available, the quantity, location and other relevant features of the funds or economic resources.

The reporting obligations also apply to central securities depositories, pursuant to the conditions set forth by Regulation 269. EU persons are also required to cooperate with EU competent authorities in any verification of the relevant information.

## Russian Exit Transactions

Under Article 12b(2a) of Regulation 833, EU businesses may request authorization from their national competent authority to

provide certain covered business services to Russian entities, if such services are strictly necessary to divest from or wind down their business activities in Russia.

The relevant covered services must be provided to and for the exclusive benefit of the legal persons, entities or bodies resulting from the divestment. Furthermore, in deciding whether to grant the authorization request, the competent authority must have no reasonable grounds to believe that the services might be provided, directly or indirectly, to the government of Russia or a military end user, or have a military end use in Russia. The derogation applies until 31 December 2023.

## REPO Global Advisory on Russian Sanctions Evasion

On 9 March 2023, the REPO Task Force, a multilateral group comprising the U.S. Department of Justice, U.S. Treasury Department, the European Commission, and the Finance and Justice Ministries of Australia, Canada, France, Germany, Italy, Japan and the United Kingdom, issued guidance on Russian sanctions evasion.

The REPO Task Force's advisory sets forth certain typologies of Russian sanction evasion tactics, which include: the use of family members (*e.g.*, children) and close associates to ensure continued access and control; the use of real estate to hold value and benefit from wealth; the use of complex ownership structures to avoid identification (*e.g.*, trust arrangements); the use of enablers to avoid involvement and leverage expertise; and the use of third-party jurisdictions and false trade information to facilitate sensitive goods shipment to Russia.

The REPO Task Force's advisory also issued recommendations to mitigate risk of exposure to evasion tactics. Such recommendations include implementing risk-based controls and utilizing information sharing mechanisms (to the extent possible in the relevant jurisdiction) to leverage other entities' data holdings. The REPO Task Force also recommends that businesses ensure that their risk assessments remain up to date to capture changes that may threaten their businesses.

See our 26 March 2023 alert, "[New US Efforts To Prosecute Sanctions Evasion and Export Control Violations May Require Compliance Programs To Be Updated](#)," for more details about the REPO Task Force advisory.