

EU's 14th Sanctions Package: Compliance Obligations Expand and Exits Are Facilitated

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On 24 June 2024, the European Union (EU) adopted its 14th sanctions package directed against Russia, imposing an asset freeze against an additional 116 individuals and entities¹ and expanding sectoral sanctions targeting key aspects of the Russian economy, including an investment ban on liquefied natural gas (LNG) projects under construction in Russia.² The asset freeze restrictions and sectoral sanctions took effect on 24 June 2024.

Several new measures also make clear that EU regulators expect EU businesses to maintain a strong sanctions compliance stance:

- Due diligence and risk assessment requirements are articulated for EU businesses dealing with common high priority (CHP) items.
- A best-efforts obligation is created to ensure EU sanctions compliance on the part of non-EU subsidiaries and joint ventures of EU businesses (50% shareholdings), though this stops short of expanding EU jurisdiction to non-EU subsidiaries and such joint ventures.
- The EU anti-circumvention rule is clarified to provide that the knowledge-and-intent liability standard covers a situation where a person does not deliberately seek to circumvent EU sanctions but is aware that their participation in an activity may have that object or effect and accepts this possibility. This change increases the risk that large companies and financial institutions will be considered to have acted in violation of this rule.

At the same time, EU member states are now explicitly authorised to consider voluntary self-disclosures of sanctions violations as a mitigating factor in enforcement actions.³

Executive Summary

Asset Freezes

- An additional 116 individuals and entities are now subject to asset freezes in the EU.
- Regulation 269 was amended to provide that, in certain circumstances, EU member states may release funds that were frozen due to the involvement of a sanctioned Russian bank in a transfer of funds from Russia to the EU where the transfer was between non-sanctioned individuals or entities.

Sanctions Targeting Russia's Energy Sector

- The energy-related investment ban in Regulation 833 was extended to prohibit EU persons from selling, supplying, transferring or exporting, directly or indirectly, goods and technology to Russia for construction or completion of LNG projects such as terminals and plants. These restrictions also apply to covered services for Russian LNG projects.

¹ See [Council Regulation \(EU\) 2024/1739 of 24 June 2024, 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 \(EU\) 2024/1746 of 24 June 2024](#), implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

² See [Council Regulation \(EU\) 2024/1745 of 24 June 2024, amending Regulation \(EU\) No 833/2014](#) concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

³ 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 for failing to adhere fully to sanctions restrictions.

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- EU businesses are now prohibited from: (a) providing reloading or other covered services in the EU for transshipment operations involving Russian LNG; and (b) purchasing, importing or transferring, directly or indirectly, Russian LNG into terminals in the EU that are not connected to the EU interconnected natural gas system.

Trade Measures

- Regulation 833's restrictions on the sale, supply, export and transfer of dual-use goods and technology, advanced technology items and goods that could contribute to the enhancement of Russian industrial and defence capacities have been extended to additional chemicals, plastics, vehicles parts and machinery, among other items.
- Imports of helium originating in or exported from Russia are banned and the scope of the ban on Russian diamonds was clarified.
- The EU's flight ban has been extended to any aircraft if a Russian individual or entity effectively determines the place or time of its take-off or landing.

Financial Sector Restrictions

- A ban has been imposed on the use of the System for Transfer of Financial Messages (SPFS) or any equivalent specialised financial messaging services set up by the Central Bank of Russia or the Russian State as an alternative to the international SWIFT system.

Anti-Circumvention Measures

- New exemptions have been created to the "no-Russia clause" requirement under Article 12g of Regulation 833 but the requirement has been extended to the sale and licensing of IP.
- The road transport ban has been extended to EU road transport undertakings owned 25% or more by a Russian individual or entity. In addition, a new annex was added listing vessels that are prohibited from accessing ports and locks in the EU, among other restrictions, because they are considered to be supporting the Russian war against Ukraine.

Enforcement and Compliance Measures

- EU companies are now required to undertake best efforts to ensure that non-EU entities that they own or control do not undermine EU sanctions.
- As of 26 December 2024, EU businesses that sell, license or transfer intellectual property (IP) rights or trade secrets relating to covered CHP items to non-EU business partners will be required to contractually prohibit their non-EU business partners (and require those partners to also prohibit their sublicensees) from using such IP or trade secrets for CHP items intended for Russia.

- As of 26 December 2024, EU businesses involved in commercial transactions involving CHP items will be required to implement risk assessment policies and procedures to mitigate risk of exportation of such items to or for use in Russia.
- Liability under the anti-circumvention rule's knowledge-and-intent standard has been extended to cover a situation where a person does not deliberately seek to circumvent EU sanctions but is aware that their participation in an activity may have such object or effect and accepts this possibility.
- Regulation 833 and Regulation 269 now provide that EU member states may consider voluntary self-disclosures of sanctions violations a mitigating factor in an enforcement case.

Legal Protections Regarding Sanctions-Related Damages

- Member states' courts were given expanded powers to hear damages claims arising from the actions of Russian companies related to sanctions implementation and expropriation. Moreover, EU individuals or businesses may initiate proceedings in the EU for damages against Russian companies that filed a claim in non-EU courts arising from a contract or transaction whose performance was affected by EU sectoral sanctions or asset freeze restrictions.
- Under amended Regulation 833, an EU individual or business may initiate proceedings in the EU for damages that it incurred because a Russian party benefitted from the Russian government's April 2023 presidential decree (Expropriation Decree) relating to the takeover of assets associated with so-called "unfriendly" foreign states.⁴
- Under amended Regulation 833, EU persons are prohibited from engaging, directly or indirectly, in any transaction with any specified Russian party who has filed a claim in a Russian court against an EU individual or company pursuant to Article 248 of the Arbitration Procedure Code of the Russian Federation or equivalent Russian legislation in relation to a contract or transaction that has been affected by EU sectoral sanctions or asset freeze measures.

Professional Services Restrictions

- The end date for the exemption allowing EU companies to provide restricted professional services to Russian subsidiaries of Western parent companies was extended until 30 September 2024. EU entities that benefit from the derogation should therefore prepare to request such an authorisation ahead of the new deadline.

⁴ Decree of the President of the Russian Federation No 302 of 25 April 2023.

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- The restrictions on professional services now contain an exemption for EU nationals who were residing in Russia before 24 February 2022.

Russian Exit Transactions

- The deadline for the divestment derogation for Russian exit transactions involving the sale, supply or transfer of controlled goods, or the provision of restricted professional services, has been extended to 31 December 2024.

Asset Freezes

New Entities and Persons Listed by the EU

The EU has imposed asset freeze restrictions against 69 individuals and 47 entities under the new round of sanctions. The sanctions target companies operating in the military, space engineering, chemical, explosives and energy sectors, as well as some involved in disinformation activities. More than 2,200 individuals and entities are now subject to an asset freeze 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.

The EU Council (Council) has updated its [Best Practices](#) for the effective implementation of restrictive measures to specify that ownership means being in possession of 50% or more of the proprietary rights of an entity or having a majority interest therein. The Council's Best Practices also provide important updates on the concept of control, as well as other key concepts, under EU sanctions.

New Derogations to Release Frozen Funds

Under Regulation 269, an EU national competent authority may now authorise under certain conditions the release of funds that were frozen due to the involvement of a bank listed in Annex I of Regulation 269 that acted as an intermediary during the transfer of the relevant funds from Russia to the EU.⁵

⁵ To release the frozen funds, the EU national competent authority must determine that (i) the funds transfer was between two individuals or entities that are not under an EU asset freeze, (ii) the relevant payment involved accounts maintained at financial institutions that are not under an EU asset freeze, and (iii) the payment does not breach the anti-circumvention rule or benefit an asset freeze target.

Another derogation under Regulation 269 allows an EU national competent authority to authorise under certain conditions the release of funds that were frozen due to a transfer from Russia to the EU that was initiated through or from an individual or entity subject to an EU asset freeze.⁶

These derogations do not apply to frozen funds or economic resources held by central securities depositories.

Sanctions Targeting Russia's Energy Sector Investment Ban Extended to LNG

The EU maintains a ban on new investments in the Russian energy and mining sectors. The new sanctions extended the ban to cover projects under construction to produce LNG in Russia, such as Arctic LNG 2 and Murmansk LNG. Within this sector, the ban prohibits the purchase of equity, creation of joint ventures, provision of loans, credit or financing, or provision of investment services in relation to any of the foregoing activities.

LNG-Related Transshipment Restrictions

EU businesses are prohibited from providing reloading services in the EU, directly or indirectly, for the purpose of transshipment operations of LNG originating in or exported from Russia.⁷ The new sanctions also prohibit EU businesses from providing technical assistance, brokering services, financing or financial assistance, directly or indirectly, related to reloading services for transshipment operations involving Russian LNG.⁸

Regulation 833 provides a wind-down period for contracts concluded before 25 June 2024 until 26 March 2025, and a derogation allows an EU national competent authority to authorise reloading services for transshipment operations involving Russian LNG if the reloading is necessary to transport the covered LNG to such member state to ensure its energy supply.

Regulation 833 requires EU operators involved in unloading operations related to Russian LNG to inform their national competent authority of all their unloading operations, including volumes, by 26 July 2024, and every month thereafter.

⁶ The payment must be between two individuals or entities that are not subject to an EU asset freeze, and it must not breach the anti-circumvention rule or benefit an asset-freeze target. The beneficiary of the payment must be a national or a temporary or permanent resident in the EU, European Economic Area or Switzerland. EU national competent authorities may grant one authorisation per applicant.

⁷ The restriction applies to LNG falling under CN code 2711 11 00.

⁸ EU national competent authorities may establish rules and guidance in their jurisdiction on enhanced due diligence requirements to ensure compliance with the transshipment prohibition.

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LNG Import Restrictions

Regulation 833 now prohibits the purchase, import or transfer, directly or indirectly, of LNG that originates in or is exported from Russia through LNG terminals in the EU that are not connected to the interconnected natural gas system. It is also prohibited to provide technical assistance, brokering services, financing or financial assistance, or any other services, directly or indirectly, relating to the purchase, import or transfer of Russian LNG.

Per the EU, this restriction complements the measures under the EU's [hydrogen and decarbonised gas market package](#), which allows EU member states to limit the import of Russian gas into their national network in line with the [REPowerEU objectives](#).

Regulation 833 provides a wind-down period for contracts concluded before 25 June 2024 until 26 July 2024 (or an ancillary contract necessary for the satisfaction of such a contract).

LNG Technology Export Restrictions

Regulation 833 now prohibits the sale, supply, transfer or export, directly or indirectly, of goods and technology or services to any individual or entity in Russia when such covered goods are for the completion of LNG projects, such as terminal or plants. Moreover, it is prohibited to provide technical assistance, brokering services, financing or financial assistance, directly or indirectly, relating to goods and technology and services in Russia intended for the completion of LNG projects.

Regulation 833 provides a wind-down period for contracts concluded before 25 June 2024 until 26 September 2024 (or an ancillary contract necessary for the satisfaction of such a contract).

Trade Measures

Export Controls and Restrictions

Dual-Use Goods and Technology etc.

The EU further extended the scope of the export restrictions on dual-use goods and technology, advanced technology items and goods that could contribute in particular to the enhancement of Russian industrial capacities. According to the EU Commission's (Commission's) [Q&A on the 14th sanctions package](#), the new sanctions broadened several of the existing six-digit CN code bans to cover full four-digit categories, including: chemical industry products, plastic industry products, vehicles parts (including replacement parts for trucks) and machinery and appliances. Moreover, additional items were added to the CHP items list found in Annex XL of Regulation 833.

Additional Entities Subject to Stricter Export Restrictions

Sixty-one entities connected to Russia's military-industrial complex were added to Annex IV of Regulation 833, making them subject to stricter export restrictions with respect to dual-use goods and technology and advanced technology items. The listed entities include non-Russian companies that the EU has determined are involved in circumventing EU sanctions and procuring sensitive items for Russia, or that otherwise provide material support for Russian military operations.

Import Controls and Restrictions

Ban on Helium Imports

Helium has been added to the list of goods that generate significant revenues for Russia and are therefore subject to an EU import ban if they originate in or are exported from Russia. EU businesses are prohibited from purchasing, importing or transferring, directly or indirectly, Russian-based helium into the EU, and EU operators are prohibited from providing, directly or indirectly, technical assistance, brokering services, financing or financial assistance, or other services related to the import of Russian-based helium.

Clarification of the Restrictions on Russian Diamonds

Considering that there are stocks of diamonds held outside Russia that the EU has determined no longer provide revenue to Russia, but that may need to be exported for processing or imported after processing, the EU has updated the rules that apply to the diamond ban:

- The ban on jewellery incorporating diamonds originating in or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams per diamond that are processed in a third country outside of Russia, which was scheduled to take effect on 1 September 2024, is postponed until the Council decides otherwise. The covered diamonds are listed in Part C of Annex XXXVIII A of Regulation 833.
- The ban does not apply to jewellery incorporating such diamonds if they are manufactured before 1 September 2024 and were: (i) temporarily imported into the EU from a non-EU country other than Russia; or (ii) imported into the EU after a temporary exportation to any non-EU country other than Russia; provided that they were placed under the temporary admission, inward processing, outward processing or temporary export customs procedures when entering or exiting the EU.

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- The ban does not apply to Russian diamonds and jewellery incorporating Russian diamonds (*i.e.*, all products listed in Parts A, B, and C of Annex XXXVIII A of Regulation 833) under certain specific conditions.⁹

Financial Sector Restrictions

SPFS Ban

The SPFS financial messaging system was developed by the Central Bank of Russia (CBR) as an alternative to the SWIFT network used in other countries. EU sanctions now prohibit EU businesses operating outside of Russia from directly connecting to the SPFS or any other equivalent specialised financial messaging services set up by the CBR or the Russian state.

EU sanctions also provide for the possibility of imposing a full transaction ban against non-Russian entities that use the SPFS or an equivalent. At the time of writing, the EU has not yet designated any entity under this authority.

The prohibition is subject to certain exemptions set forth in Regulation 833, which also provides a wind-down period for contracts concluded before 24 March 2024 until 26 September 2024.

Dual-Use-Related Transaction Ban on Financial Institutions

Under Regulation 833, the EU may impose a full transaction ban against a non-EU credit or financial institution or non-EU crypto-assets service provider involved in transactions that

⁹ The ban does not apply if any of the following conditions are satisfied:

1. The covered products were physically located in the EU before the EU diamond ban took effect and were thereafter exported to a non-EU country, excluding Russia. Regulation 833 requires importers to provide evidence that, at the time of importation into the EU, the products were physically located in the EU or a certificate, based on a submitted stock declaration, from the authority listed in Annex XXXVIII B prior to the export from the EU.
2. The covered products were physically located, polished or manufactured in a non-EU country other than Russia before the EU diamond ban took effect. Regulation 833 sets forth the following requirements on importers at the moment that such products are imported into the EU:
 - For products falling under CN codes 7102 10 00 (unsorted diamonds), 7102 31 00 (unworked or simply sawn, cleaved or bruted diamonds) and 7104 21 00 (synthetic or reconstructed, unworked or simply sawn or roughly shaped diamonds), to provide evidence that the covered products had initially been imported into the relevant non-EU country before the EU prohibitions took effect for these products.
 - For products falling under CN codes 7102 39 00 (other diamonds, worked, but not mounted or set (excluding industrial diamonds)) and 7104 91 00 (diamonds, synthetic or reconstructed, worked, whether or not graded but not strung, mounted or set; ungraded diamonds, temporarily strung for convenience of transport (excluding diamonds simply sawn or roughly shaped)), as well as products listed in Part C of Annex XXXVIII A, to provide evidence that the products had been finally processed or manufactured in the relevant non-EU country, or had been physically located in a processed or manufactured state in such non-EU country, before the relevant EU prohibitions were applicable.

facilitate, directly or indirectly, the export, sale, supply, transfer or transport of dual-use goods and technology, and other controlled goods (*e.g.*, CHPs, firearms and ammunition) to Russia.

Anti-Circumvention Measures

No-Russia Clause

Article 12g of Regulation 833 already imposed a so-called “no-Russia clause” that requires EU exporters to contractually prohibit the re-exportation of certain restricted goods to Russia when dealing with non-EU business partners. The exports to EU partner countries continue to be excluded under the no-Russia clause.¹⁰

We discussed the no-Russia clause in detail in our 9 January 2024 client alert “[EU Further Strengthens Restrictive Measures Against Russia in 12th Package of Sanctions](#).” EU guidance on the no-Russia clause was discussed in our 11 March 2024 client alert “[EU Expands Restrictive Measures in 13th Russian Sanctions Package and Publishes Guidance](#).”

New Exemptions

EU businesses are exempt from applying the no-Russia clause for business activities involving:

- i. Contracts relating to goods falling under CN codes 8457 10, 8458 11, 8458 91, 8459 61, and 8466 93, as set forth in Annex XL of Regulation 833.
- ii. Contracts involving other goods and concluded before 19 December 2023 until 1 January 2025, or until the expiry date of such contract, whichever is earlier. (The wind-down provision was previously set to expire on 20 December 2024.)¹¹
- iii. Public contracts concluded with a non-EU public authority or with an international organisation.

No-Russia Clause Extended to IP and Trade Secrets Relating to CHP Items

As of 26 December 2024, when an EU business sells, licenses or transfers in any other way IP or trade secrets (or rights to access or re-use any material information protected by IP rights

¹⁰ The partner countries, as listed in Annex VIII of Regulation 833, are: Australia, Canada, United States, Japan, United Kingdom, South Korea, New Zealand, Norway, Switzerland, Iceland and Liechtenstein.

¹¹ Recital 31 of Council Regulation (EU) 2024/1745, which amended Regulation 833, states that, “[i]n the case of contracts falling within the scope of Article 12g of Regulation (EU) No 833/2014 that were concluded before 19 December 2023, the obligation under that Article should be considered as met if the contract contains a general clause that prohibits exportation and re-exportation of the goods and technology in question to jurisdictions targeted by Union restrictive measures, and sets out adequate remedies in the event of a breach of that clause.”

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or as a trade secret) relating to covered CHP items, the EU business will be required to contractually prohibit its non-EU business partners (and require those partners to also prohibit their sublicensees) from using that IP or trade secret for CHP items that are intended for any sale, supply, transfer or export, directly or indirectly, to or for use in Russia.

Regulation 833 provides a wind-down period for contracts concluded before 25 June 2024 until 26 June 2025 or until the expiry date of such contracts (whichever is earlier).

Tightened Road Transport Ban

Regulation 833 already prohibited any road transport undertaking established in Russia from transporting goods by road within the territory of the EU, including in transit.

As of 26 July 2024, that ban will be extended to any road transport undertaking established in the EU after 8 April 2022 that is owned 25% or more by a Russian individual or company. The new restrictions do not apply if the Russian national owner is also an EU citizen or permanent or temporary resident.

Restrictions on Vessels Engaged in Sanctionable Activity

The EU has imposed new sanctions against vessels that it has determined are engaged in sanctionable activities in support of the war in Ukraine. These vessels are listed in Annex XLII under Regulation 833. It is prohibited to provide access to EU ports, anchorage zones and locks to such vessels. Moreover, it is prohibited to provide financing and financial assistance, including insurance, as well as brokering services, including ship brokering to these vessels. The full list of restrictions is set forth in Article 3s of Regulation 833.

Enforcement and Compliance Measures

Common High Priority Items

Regulation 833 now requires EU individuals or entities involved in the sale, supply, transfer or export of CHP items listed in its Annex XL to take appropriate steps to identify and assess the risks of exportation to or for use in Russia. Per the amended Regulation 833, those risk assessments must be documented and kept up to date.

Regulation 833 also requires EU individuals or entities involved in CHP-related activities to implement appropriate policies, controls and procedures to mitigate and manage effectively the risks of exportation of such covered goods to or for use in Russia.

Such policies, controls and procedures must address risks that are identified at the level of the company, member state or EU.

The required risk assessment and policy implementation may be proportionate to the nature and size of the company.

These requirements do not apply to individuals or entities involved in sales of CHP items within the EU or to the partner countries.

The requirements will take effect on 26 December 2024.

Clarification of the Anti-Circumvention Rule

Under the anti-circumvention rule, the key elements for establishing liability are: (i) acting with knowledge; and (ii) intent to circumvent a prohibition included in the regulations. The anti-circumvention rules in Regulation 269 and Regulation 833 were amended in the 14th package to align with the Court of Justice of the EU's (CJEU's) interpretation of the terms "knowingly" and "intentionally" in Case C-72/11, *Afrasiabi and Others*.

Specifically, under the amended rule, knowledge and intent may also be established in a situation where a person does not deliberately seek to circumvent EU sanctions, but is aware that their participation in an activity may have such object or effect and accepts this possibility.

Oversight of Non-EU Entities

A new provision in Regulation 833 requires EU businesses to use their best efforts to ensure that any legal entities outside the EU that they "own or control" do not participate in activities that undermine EU sanctions. This requirement signals that the EU expects EU parent companies to maintain sanctions compliance oversight over non-EU entities.

The recitals to this new provision are important in two respects. First, they state that the obligation applies not only to majority-owned subsidiaries, but also to 50% shareholdings, which includes many joint ventures. This is broadly consistent with the updated definition of ownership in the Council's Best Practices referred to above. Furthermore, the recitals provide that, if an EU parent company is able to effectively assert a decisive influence over the conduct of their non-EU subsidiary, the parent may incur responsibility for actions by a non-EU subsidiary that undermines EU sanctions.

While recitals of a regulation do not have the same binding effect as its articles, the CJEU attaches significant importance to the recitals because they explain the legislative purpose, which traditionally

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plays a prominent role in the interpretation of EU legal acts. Regulation 833 stops short of imposing direct responsibility on EU businesses for potential sanctions violations by non-EU shareholders. However, the new oversight requirement underscores that EU parent companies could face exposure for EU sanctions violations by their non-EU subsidiaries and joint ventures.

Considering the potential implications of the recitals, we will continue to monitor whether the CJEU, the Council or the Commission provide further guidance on the recitals and clarify how member states should enforce this new provision.

Voluntary Self-Disclosures

Under the amended Regulation 833 and Regulation 269, EU member states may consider a voluntary-self disclosure (VSD) of a sanctions violation to be a mitigating factor in an enforcement case, in accordance with their national law. This new consideration provides an incentive for parties to supply their national competent authority voluntarily with information about potential violations.

The VSD provision in the latest round of sanctions is consistent with Directive (EU) 2024/1226 (the Directive) to establish minimum rules on the definition of criminal offences and penalties for the violation of EU sanctions, adopted by the EU on 24 April 2024.¹² The Directive requires that EU member states ensure that their laws provide for specific mitigating factors when considering the applicable penalty, including when the offender provides national competent authorities with information that they would not have otherwise obtained if such information helps the authorities identify or bring to justice other offenders or find relevant evidence. EU member states are required to implement the Directive by 20 May 2025.

Legal Protections Regarding Sanctions-Related Damages

Compensation for Damages

The new sanctions have introduced two legal grounds on which an EU individual or business may initiate legal proceedings in the EU for damages caused by Russian companies involved in sanctions implementation or expropriation.

¹² See Directive (EU) 2024/1226 of the European Parliament and of the Council of 24 April 2024 on the definition of criminal offences and penalties for the violation of Union restrictive measures and amending Directive (EU) 2018/1673.

Under Regulation 833 and Regulation 269, EU individuals or businesses are entitled to recover in legal proceedings in EU member states' courts any damages (including legal costs) incurred due to actions brought against them in a non-EU country by companies subject to sectoral sanctions under Regulation 833 or asset freeze restrictions under Regulation 269 stemming from a contract or transaction whose performance was affected, directly or indirectly, in whole or in part, by these sanctions.¹³

Under Regulation 833, EU individuals or businesses are entitled to recover, in legal proceedings before competent EU member states' courts, damages (including legal costs) incurred due to a Russian company benefitting from Russia's 2023 Expropriation Decree or Russian legislation that is related or equivalent to that decree, providing that such decision is considered illegal under customary international law or under a bilateral investment treaty between an EU member state and Russia.

These provisions apply only if the EU individual or business does not have effective access to remedies in the relevant non-EU country.

Per the [Commission's Q&A](#), this article was introduced to allow EU companies to recover damages from the relevant Russian companies' potential assets in the EU.

Transaction Ban

The amended Regulation 833 prohibits EU persons from engaging in any transaction with a Russian company listed by the EU for having lodged a claim before a Russian court against an EU individual or company in connection with contracts or transactions whose performance was affected, directly or indirectly, in whole or in part, by the EU sanctions. The list, covering companies that have brought claims pursuant to Article 248 of the Arbitration Procedure Code of the Russian Federation (or equivalent Russian legislation), will be published in a new Annex XLIII. At the time of writing, the EU has not yet added any entity to the annex.

¹³ Under Regulation 833, a claim can be made against: (i) legal persons, entities, or bodies listed in the Annexes of Regulation 833 or companies established outside the EU and owned more than 50% by such listed legal persons, entities, or bodies; (ii) any other Russian person, entity, or body; or (iii) any person, entity, or body acting through or on behalf of one of the persons, entities, or bodies referred to in items (i) and (ii). Under Regulation 269, a claim can be made against: (i) designated natural or legal persons, entities, or bodies listed in Annex I of Regulation 269; or (b) any natural or legal person, entity, or body acting through or on behalf of one of the persons, entities, or bodies referred to in item (i).

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Professional Services Restrictions

Extension of the Deadline of the Intra-Group Exemption

Prior to the 12th sanctions package, the EU professional services ban did not apply to the provision of services intended for the exclusive use of Russian subsidiaries of EU and partner-country companies (the so-called “intra-group exemption”). The 12th sanctions package provided that this exemption would expire on 20 June 2024. In the 14th sanctions package, the EU retroactively extended the deadline until 30 September 2024. As of 1 October 2024, operators in scope of the previous exemption will require an authorisation from their national competent authorities to provide services prohibited by the professional service ban to Russian subsidiaries.

On 2 July 2024, the Commission issued FAQs regarding the EU professional services ban providing further (non-binding) guidance on interpretation of the provision.

Exemption for EU Citizens Residing in Russia Before the War in Ukraine

Under a new article 5n(8a) of Regulation 833, the EU restrictions on providing covered professional services to Russia do not apply to EU nationals who are residents of Russia and were so before 24 February 2022 if they are employed by Russian subsidiaries of EU and partner-country companies, and the services are intended for the exclusive use of those Russian entities.

Russian Exit Transactions

Extended Deadline

Regulation 833 provides the possibility for EU national competent authorities to authorise EU businesses to divest from their Russian business operations involving restricted goods or services under certain conditions that aim at ensuring that no circumvention of the relevant measures takes place under the pretext of divestment. The deadline for the divestment derogation has been extended to 31 December 2024 for Russian exit transactions involving: (i) the sale, supply, transfer or import of controlled goods; (ii) the sale, licensing or transfer of IP rights or trade secrets relating to controlled goods; or (iii) the provision of restricted professional services as part of such divestment transaction (e.g., transitional services).

The EU has also extended the deadline for the derogation for the sale, supply or transfer of Annex II goods where such sale, supply or transfer is strictly necessary for the divestment from an EU-incorporated joint venture (incorporated before 24 February 2022) that involves a Russian entity and operates a gas pipeline infrastructure between Russia and a third country.

Practical Considerations

Companies working to exit from operations and investments in Russia should bear in mind that the EU divestment derogations include certain conditions under which an EU competent authority can grant an authorization. Conceivably, different competent EU authorities may interpret these conditions differently. For instance, although the Commission's non-binding guidance considers that a divestment transaction involving controlled goods held by the Russian entity being sold and structured as a share deal falls within the scope of EU sanctions, there is an ongoing debate regarding this guidance. The competent authorities in some EU member states followed a different interpretation in the past and considered the indirect sale of controlled goods via a share deal to be out of scope of EU sanctions. Some competent authorities changed their interpretation after the EU Commission issued its non-binding guidance, while other authorities stuck to their initial view.

There is also ambiguity regarding the scope of the deadlines set forth in the EU divestment derogations. Regarding the derogations on the sale, supply, transfer or import of controlled goods in a divestment transaction, the non-binding guidance by the Commission states that such sale, supply, transfer or import must occur ahead of the deadline. However, considering the often complex considerations that may arise in negotiating an exit from Russia, it is conceivable that completing the sale, supply, transfer or import ahead of the deadline might prove difficult.

On the other hand, there is no similar guidance on the deadline set forth in the EU derogation to provide professional restricted services as part of a divestment. Deadline considerations are, however, particularly important for post-closing transitional services that are often necessary to facilitate the transfer of a business.

Companies should therefore engage with relevant regulators in a timely manner to discuss these considerations and understand the relevant regulator's stance.

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