

# Latest EU Russian Sanctions Expand Sector Restrictions and Add Designated Individuals and Entities

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On 16 December 2022, the European Union (EU) adopted a ninth package of sanctions against Russia. These impose an asset freeze on almost 200 additional individuals and entities pursuant to Council Regulation No. 269/2014<sup>1</sup> (Regulation 269) and expand existing sectoral sanctions under Council Regulation No. 833/2014<sup>2</sup> (Regulation 833), including a ban on new investments in the Russian mining sector.<sup>3</sup>

The new measures are implemented as the EU turns its attention to enforcement of sanctions, and follow the European Commission's proposal to add violations of sanctions to the list of EU crimes. A draft directive, which sets forth a list of criminal offenses and penalties relating to violations of EU sanctions, is under discussion by the European Parliament and the EU Council as part of the EU's co-legislative procedure. The EU has also appointed a sanctions envoy to push for tighter enforcement of its sanctions against Russia.<sup>4</sup>

The new EU measures came the same week that the UK expanded its sanctions. See our 22 December 2022 client alert, "[UK Expands Prohibitions on Providing Services to Russian Entities and Adds Investment Restrictions](#)."

The ninth set of sanctions follows the EU's implementation of the price cap on Russian oil that took effect on 5 December 2022.<sup>5</sup> The new EU asset freeze measures entered into force on 16 December 2022, and the sectoral sanctions took effect on 17 December 2022.

Here are key aspects to note:

- The EU has added almost 200 additional individuals and entities (including Credit Bank of Moscow and Dalnevostochniy Bank) to Annex I of Regulation 269, making them subject to an asset freeze in the EU.
- The EU has extended the scope of the trade restrictions and export controls for dual-use goods and technology and advanced technology items. As part of these measures, 168 entities were added to Annex IV of Regulation 833 and are therefore subject to stricter export controls.
- The scope of the professional and financial services ban was extended to new activities. Moreover, EU persons are prohibited from serving on the governing boards of covered Russian state-owned entities.
- The EU imposed a ban on new investments in the Russian mining sector.

<sup>1</sup> See Council Regulation (EU) 2022/2475 of 16 December 2022, amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

<sup>2</sup> See Council Regulation (EU) 2022/2474 of 16 December 2022, amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

<sup>3</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.

<sup>4</sup> See European Commission, News Article, "[EU Appoints David O'Sullivan as International Special Envoy for the Implementation of EU Sanctions](#)," 13 December 2022.

<sup>5</sup> See our December 20, 2022, client alert, "[EU and UK Price Cap on Russian Crude Oil](#)."

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- Regulation 833 provides a derogation that allows EU businesses to submit a request for authorization to national competent authorities for certain covered transactions involving restricted goods, in furtherance of divestments or the wind-down of business activities in Russia.
- The Russian Regional Development Bank is now subject to the EU comprehensive transaction ban.
- The media ban was extended to additional Russian media outlets.
- Regulation 269 provides a specific derogation, on a case-by-case basis, to address food security concerns.

## Extended Scope of Export Restrictions

### Dual-Use Goods and Technology; Advanced Technology Items

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 drone engines, chemical and biological equipment, riot control agents and electronic components. Additionally, the list of advanced technology items was extended to include such items as generators, toy drones, laptops, hard drives, IT components, night-vision and radio-navigation equipment, cameras and lenses.

The European Commission has stated that the export restrictions on drones apply to the direct exports of drone engines to Russia, as well as to exports to any third country, including Iran, where there is a risk of diversion and military use in Russia.

### Additional Entities Subject to Stricter Export Restrictions

The EU has added 168 new entities connected to Russia's military and industrial complex to Annex IV of Regulation 833 and those entities are therefore subject to stricter export restrictions with respect to dual-use goods and technology, and advanced technology items. The list notably includes certain Russian-controlled entities based in Crimea. The European Commission has stated that the listed entities include military end-users working in various sectors, such as aeronautics, research centres, naval/marine, weapons manufacturing, and information and communication.

### Aviation and Space Industry

The export ban covering goods and technology suited for use in the aviation and space industry was extended to include aircraft engines and their parts.

## Ban on the Provision of Additional Business Services

Under Regulation 833, EU persons are now prohibited from providing market research and public opinion polling services, technical testing and analysis services, and advertising services to legal entities established in Russia or to the Russian government.

Under Regulation 833, the technical testing and analysis services covered include those involving composition and purity, physical properties, integrated mechanical and electrical systems, and technical inspection services.

Advertising services include the sale or leasing of advertising space or time, and the planning, creating and placement services of advertising, as well as other advertising services.

Regulation 833 provides a wind-down period for contracts concluded before 17 December 2022 (or ancillary contracts necessary to execute such contracts), until January 16, 2023. Furthermore, the prohibition does not apply to the provision of services intended for the exclusive use of Russian entities that are owned or controlled by a legal entity that is incorporated or constituted under the law of an EU member state, a member of the European Economic Area, Switzerland, or a partner country such as the US, UK, Japan or South Korea.

## Ban on Serving on Governing Boards of State-Owned Entities

Regulation 833 prohibits EU nationals from holding any posts on the governing boards of entities established in Russia that are:

- publicly-owned more than 50% or publicly controlled, or in which Russia, its government or central bank has the right to participate in profits or has another substantial economic relationship;
- an entity established in Russia that is more than 50% owned, directly or indirectly, by an entity described in (i); or
- an entity established in Russia and acting on behalf or at the direction of an entity described in (i) or (ii).

The ban will take effect on 16 January 2023.

Regulation 833 provides a derogation, at the discretion of national competent authorities, if the relevant entity is a joint venture (or a similar legal arrangement) involving a covered entity described above and an entity incorporated or constituted under the law of an EU member state before 17 December 2022.

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The derogation may also apply to a covered entity established in Russia before 17 December 2022 that is owned, or solely or jointly controlled, by an entity that is incorporated or constituted under the law of an EU member state.

Regulation 833 also provides other derogations if such post is held in a covered entity that is necessary for ensuring critical energy supply or is involved in the transit of oil originating in a third country and transiting through Russia.<sup>6</sup>

## Ban on New Investments in Russia's Mining Sector

The EU sanctions already include a far-reaching ban on new investments in the Russian energy sector. In the latest sanctions, the EU has also imposed a ban on new investments in the Russian mining sector. Specifically, the ban extends to any non-EU entity operating in the mining and quarrying sector in Russia.<sup>7</sup> The ban also covers any new loan or credit, or financing, including equity capital. EU persons are also prohibited from creating any new joint-venture with any entity operating in the Russian mining and quarrying sector or providing investment services relating to the covered mining activities.

Regulation 833 provides an exemption for mining and quarrying activities involving certain critical raw materials listed in Annex XXX of Regulation 833.

Regulation 8333 also provides a derogation, at the discretion of national competent authorities, under certain conditions, notably when it is necessary to ensure critical energy supply within the EU or if the covered activity is for the exclusive use of a legal entity operating in the energy sector in Russia that is owned by an entity incorporated or constituted under the law of an EU member state.

## Russian Exit Transactions

Under Article 12b of Regulation 833, EU businesses may request authorization from their national competent authority to engage in certain covered transactions involving restricted goods, to divest or wind down their business activities in Russia. Per Regulation 833, the new derogation aims to facilitate divestment and expeditious exit from the Russian market by EU businesses.

<sup>6</sup> Per Regulation 833, the holding of such a post must be intended for operations that are not prohibited under Article 3m and Article 3n.

<sup>7</sup> Under Regulation 833, mining and quarrying sector means a sector covering location, extraction, management and processing activities relating to non-energy producing materials.

The derogation is limited in scope and applies to covered goods that are owned by an EU entity or a Russian entity that is owned by, or solely or jointly controlled by, an EU entity. Moreover, the derogation applies only to covered goods that were physically in Russia at the time the restrictions entered into force. The competent authorities may not grant the authorization if they have reasonable grounds to believe that the goods might be for a military end-user or have a military end-use in Russia. The derogation is temporary and applies until 30 September 2023.

The EU has also extended until 30 June 2023 the exemption authorizing transactions, including sales, that are strictly necessary for the wind-down of joint ventures or similar legal arrangements concluded before 16 March 2022 involving covered Russian state-owned entities subject to the EU comprehensive transaction ban set forth in Article 5aa of Regulation 833.

## Media Ban Extended to Additional Russian Media Outlets

The EU has extended the broadcasting suspension (media ban) to cover NTV/NTV Mir, Rossiya 1, REN TV, and Pervyi Kanal. Regulation 833 prohibits EU operators from broadcasting content and facilitating or contributing to those broadcast services by any means by the covered entities. Moreover, Regulation 833 imposes a prohibition on advertising any goods or services on the banned media outlets by any means.

## Food Security

To further address food security concerns in third countries, Regulation 269 provides a new derogation allowing member states to unfreeze the assets of, and make funds and economic resources available to, certain individuals who held a significant role in the international trade of agricultural and food products, including wheat and fertilizers, prior to their listing under the EU sanctions.

The relevant competent authorities may provide the derogation on a specific and case-by-case assessment for each relevant transaction separately, after determining that such funds or resources are necessary for the sale, supply, transfer or export of agricultural and food products, including wheat and fertilizers, to third countries to address food security.