

EU Increases Russia-Related Restrictions and Expands Anti-Circumvention Measures in 11th Package of Sanctions

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On 23 June 2023, the European Union (EU) adopted an 11th package of sanctions against Russia that:

- Expand the scope of the sectoral sanctions targeting the Russian economy.
- Enhance the EU's anti-circumvention measures pursuant to Council Regulation (EU) 833/2014 (Regulation 833).¹
- Impose an asset freeze against over 100 additional individuals and entities.
- Introduce a new basis under Council Regulation (EU) 269/2014 (Regulation 269) for imposing an asset freeze against individuals and entities that significantly frustrate EU sanctions.²

The new sanctions focus particularly on preventing the circumvention of EU sanctions rules through the jurisdictions of third countries. The EU has published lists of dual-use goods and advanced technology items (so-called high priority battlefield items), as well as economically critical goods, that appear to reach Russia via third countries despite being subject to EU restrictive measures.

Notably, the EU has established a legal framework for restricting the sale, supply, transfer or export of listed goods to targeted non-EU countries where it is demonstrated that such country is a high risk of being used for circumvention, although this is to be an exceptional and last-resort measure. This is a new tool in the EU sanctions strategy, which aims to prevent non-EU companies from circumventing sanctions on Russia. Non-EU countries may be targeted by these export restrictions only if all the 27 EU member states unanimously agree.

The EU may also impose an asset freeze against operators outside the EU that significantly frustrate EU sanctions. The EU immediately made use of this authority to sanction a Russian entity that the EU said had acted as “a key facilitator in an illegal smuggling operation.”

The expanded export controls and emphasis on anti-circumvention may require some companies to reassess their compliance programs with respect to EU sanctions. That evaluation should include:

- Reviewing the expanded list of products and goods.
- Reviewing the list of countries the EU suspects may facilitate the circumvention of sanctions and considering carefully any business the company conducts in those jurisdictions.³

¹ See [Council Regulation \(EU\) 2023/1214 of 23 June 2023 amending Regulation \(EU\) No 833/2014](#) concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

² See [Council Regulation \(EU\) 2023/1215 of 23 June 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.

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 of failing to adhere fully to sanctions restrictions.

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The EU asset freeze measures against listed individuals and entities entered into force on 23 June 2023,⁴ and the sectoral sanctions took effect on 24 June 2023.

Here are key details to note in the revised sanctions rules:

- Over 100 additional individuals and entities were subjected to asset freezes, including Russian IT companies including items that the EU determined were found on the battlefield in Ukraine or equipment needed to produce such items. The export ban on industrial goods was also extended to all new and second-hand cars with engines over 1,900 cubic centimeters (1.9 liters), and all electric and hybrid vehicles.
- The EU enhanced the requirements for importers of iron and steel products to show that their inputs do not come from Russia.
- EU operators are prohibited from selling, licensing, or transferring intellectual property rights or trade secrets relating to goods that are subject to sale, supply, transfer or export restrictions.
- Eighty-seven entities connected to Russia's military and industrial complex were added to Annex IV of Regulation 833. These entities are subject to stricter export restrictions with respect to dual-use goods and technology, and advanced technology items.
- The existing transit ban was extended to some sensitive goods (e.g., advanced technology, aviation-related materials), which prohibits EU operators from exporting these goods to third countries if those goods transit through Russia.
- The EU has amended the criteria under Regulation 269 for listing individuals and entities that facilitate the circumvention of EU sanctions to include individuals and entities that significantly frustrate EU sanctions.
- Regulation 269 now allows the EU to designate persons and entities operating in the Russian IT sector with a license from Federal Security Service of the Russian Federation (FSB) or the Russian Ministry of Industry and Trade.
- To prevent circumvention of the EU's oil price cap, Regulation 833 now prohibits vessels from accessing EU ports and locks where EU competent authorities have reasonable cause to suspect the vessels of illegally interfering with, switching off or otherwise disabling their shipborne automatic identification systems (AIS) when transporting Russian crude oil and petroleum products.
- A new legal framework was established to restrict sales, supplies, transfers or exports of listed goods to targeted

non-EU countries where it is demonstrated that a country is a high risk of being used for circumvention.

- Regulation 833 includes derogations (authorizations) for the provision of restricted business services:
 - That are strictly necessary for the divestment of Russian operators from the EU.
 - Required to establish a firewall to remove a listed entity or person's control over the assets of an EU business that the listed entity or person owns or controls.
- Regulation 269 includes a derogation for the release of certain frozen funds and economic resources belonging to, owned, held or controlled by a listed person, if that is necessary to establish a firewall with a view to removing the listed person's ownership or control over an EU business.

Asset Freezes

The EU has extended asset freezes to over 100 additional individuals and entities. Newly designated entities include, among others, Russian IT companies providing critical technology and software to the Russian intelligence and entities working with the Russian armed forces. MRB Bank and CMRBank, which appear to operate in Ukrainian occupied territories, are also subject to asset freezes pursuant to Regulation 269.

EU persons are required to report to their national competent authorities certain information on funds and economic resources in the EU belonging to, owned, held or controlled by listed individuals or entities.⁵ The new sanctions clarify that these obligations are not intended to interfere with the confidentiality of communications between lawyers and their clients. See our 23 March 2023 client alert, "[EU Adopts 10th Set of Sanctions Against Russia and Strengthens Enforcement and Anti-Circumvention Measures](#)," for a further discussion on the reporting obligations.

Trade Measures

Export Controls and Restrictions

The EU further extended the scope of the export restrictions on dual-use goods and technology, and advanced technology items, to include:

- Electronic components, semiconductor materials, manufacturing and testing equipment for electronic integrated circuits and printed circuit boards.
- Precursors to energetic materials and precursors to chemical weapons.

⁴ See Council Implementing Regulation (EU) 2023/1216 of 23 June 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.

⁵ See Article 8 of Regulation 269.

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- Optical components.
- Navigational instruments.
- Metals used in the defence sector.
- Marine equipment.

The restrictions apply to the direct or indirect sale, supply, transfer or export of these products to or for use in Russia. The EU also expanded the prohibitions regarding the goods on the Common Military List to include brokering services.

Regulation 833 also prohibits the direct or indirect sale, supply, transfer or export of firearms, their parts and essential components and ammunition to or for use in Russia, whether or not such items originate from the EU. The new sanctions further extend the list of such items, and other types of arms were added.⁶

The export ban on industrial goods was also extended to all new and second-hand cars with engines larger than 1,900 cubic centimeter, and all electric and hybrid vehicles.

Additionally, Regulation 833 now prohibits the provision of technical assistance, brokering services, financing or financial services, other services related to restricted luxury goods listed in its Annex XVIII.

Import Controls and Restrictions

Under Regulation 833, it is prohibited to import, directly or indirectly, iron and steel products into the EU if they originate in or have been exported from Russia. Commencing 30 September 2023, the direct or indirect import or purchase of iron and steel products will be prohibited when those products are processed in a third country incorporating iron and steel products originating in Russia.⁷ The new sanctions clarify that importers are required to provide evidence of the country of origin of the iron and steel inputs used for the processing of the product in a third country.

Additional Entities Subject to Stricter Export Restrictions

The EU added 87 entities to the list of entities connected to Russia's military and industrial complex and therefore subject to tighter export restrictions concerning dual-use goods and technologies and advanced technology items under Annex IV of Regulation 833. For the first time, Annex IV includes three Chinese companies, as well as entities from Uzbekistan, the United Arab Emirates, Syria and Armenia.

⁶ The items are listed in Annex I and Annex XXXV of Regulation (EU) 258/2012.

⁷ Regarding products listed in Annex XVII processed in a third country incorporating steel products originating in Russia, the prohibition applies to CN code 7207 11 commencing 1 April 2024 and as of 1 October 2024 for CN codes 7207 12 10 and 7224 90.

The newly added entities also include four Iranian entities manufacturing unmanned aerial vehicles (drones) and providing them to Russia. Certain Russian entities involved in the development, production and supply of electronic components for Russia's military and industrial complex were also added to the list. The EU guidance states that EU exporters must also ensure that the covered items do not reach the listed entities indirectly (*e.g.*, via those entities' non-listed subsidiaries or other entities they control, or via an intermediary).⁸

Intellectual Property Rights Restrictions

Regulation 833 prohibits the sale, license or transfer in any other way of intellectual property rights or trade secrets relating to goods and technology whose sale, supply, transfer or export to or for use in Russia are prohibited. The restriction also covers granting of rights to access or reuse of any material or information protected by means of intellectual property rights or that constitutes trade secrets involving restricted goods.

A derogation, which applies until 31 December 2023, may be granted under certain conditions by EU competent authorities for the sale, licensing or transfer in any other way of intellectual property rights or trade secrets that is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia. The derogation also applies to granting of rights to access or reuse of any material or information protected by means of intellectual property rights or that constitutes trade secrets involving restricted goods.

Capital Markets

The current ban on selling transferable securities denominated in any official currency of an EU member state issued after 12 April 2022 to any Russian national or person residing in Russia or Russian entity was extended to transferable securities (and units in collective investment undertakings providing exposure to such securities) denominated in any other currency if issued after 6 August 2023.

Anti-Circumvention Measures

Transit Ban

Regulation 833 prohibits the direct or indirect sale, supply, transfer or export of goods and technology suited for use in aviation or the space industry, and jet fuel and fuel additives to or for use in Russia, whether or not such goods originate in the EU.

⁸ See [EU Consolidated FAQs, Export-Related Restrictions for Dual-Use Goods and Advanced Technology Items](#), FAQ # 20, p. 121.

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As part of the continued effort to prevent circumvention, Regulation 833 now prohibits EU operators from exporting from the EU goods and technology suited for use in the aviation or space industry and jet fuel and fuel additives, if the covered goods transit through Russia.⁹ The transit ban also applies to advanced technology items that are exported from the EU.

Transport Ban

Regulation 833 prohibits any road transport undertaking established in Russia from transporting goods by road within the territory of the EU, including in transit. The new sanctions have extended the transport ban to cover trailers and semi-trailers registered in Russia, including those hauled by trucks registered outside of Russia.

To allow for goods already in transit at the time the sanctions were announced, the new ban does not take effect until 30 June 2023 for (i) the transport of goods that started before 24 June 2023, provided that the trailer or semi-trailer was already in EU territory on 24 June 2023, or (ii) trailers and semi-trailers that need to transit through the EU to return to Russia.

Ports and Locks Restrictions

Regulation 833 prohibits access to EU ports and locks of vessels engaged in ship-to-ship transfers at any point of their voyage to a member state's ports or locks if the EU competent authorities have reasonable cause to suspect that a vessel is (a) in breach of the ban on importing seaborne Russian crude oil and petroleum products into the EU or (b) is transporting Russian crude oil or petroleum products purchased above the price cap agreed by the so-called Price Cap Coalition.¹⁰ See our 20 December 2022, client alert, "[EU and UK Price Cap on Russian Crude Oil](#)," for a further discussion of the EU's oil price cap.

The restriction also applies to any vessel that an EU competent authority has reasonable cause to suspect of illegally interfering with, switching off or otherwise disabling its shipborne automatic identification system at any point of the voyage to that member state's ports or locks, in breach of SOLAS Regulation V/19, point 2.4, when transporting Russian crude oil or petroleum products.

⁹ Regulation 833 prohibits the direct or indirect sale, supply, transfer or export of goods and technology suited for use in aviation or the space industry, as listed in its Annex XI, and jet fuel and fuel additives as listed in its Annex XX to or for use in Russia, whether or not such goods originating in the EU.

¹⁰ The ban on maritime transport, and technical assistance, brokering services, and financing or financial assistance related to the trading, brokering, or transport of Russian crude oil and petroleum products to non-EU countries are set forth in Article 3m and Article 3n of Regulation 833. The price cap takes the form of an exemption from the ban.

Regulation 833 provides that, if a vessel does not notify the competent EU authority at least 48 hours in advance about a ship-to-ship transfer occurring within the exclusive economic zone of a member state or within 12 nautical miles from the baseline of that member state's coast, the competent EU authority must not grant access to its ports or locks to that vessel.

The ports and locks restrictions will take effect on 24 July 2023.

Potential Restrictions Targeting Non-EU Countries

Regulation 833, as revised by the 11th sanctions package, includes a provision allowing the EU to take exceptional, last-resort measures to restrict exports to non-EU countries that may be used to facilitate the circumvention of EU sanctions.

The rule authorises the EU to impose controls (a) on the sale, supply, transfer or export (b) of sensitive dual-use goods and technology, or goods and technology that might contribute to the enhancement of Russia's military, technological or industrial capacities, or to the development of Russia's defence and security sector, (c) to individuals or entities located in a non-EU country listed in Annex XXXIII of Regulation 833 (d) where it is demonstrated that the country poses a high risk of being used for circumvention.

The restriction applies whether or not the listed goods originate in the EU.

It is also prohibited to provide technical assistance, brokering services, financing or financial services, IP, and other services related to the listed good(s) in the targeted country.¹¹

There have been press reports that the EU Permanent Representatives Committee recently examined a highly confidential dossier analysing the increase in exports from the EU to Armenia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, as well as from these countries to Russia. EU companies should take into account in their procedures the risk of starting new business in or exports to these countries.

The EU sanctions regulation provides that, when deciding whether to target a non-EU country, the EU Council should take into account a thorough technical analysis by the EU Commission on the circumvention issues in question, including available trade data demonstrating that the alternative measures

¹¹ See Article 12f of Regulation 833, " (...) Annex XXXIII shall only include third countries that have been identified by the Council as having systematically and persistently failed to prevent the sale, supply, transfer or export to Russia of goods and technology, as listed in that Annex, exported from the Union, despite the Union's prior outreach and assistance to the country in question."

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taken have been ineffective, as well as information about the efforts carried out by the EU to address the matter with the third country in question, and a clear indication that such efforts were not successful.¹²

Furthermore, before making a country subject to these measures, the EU should inform and actively seek the views of the government of that country on the basis of the preliminary findings set out in the technical analysis by the Commission and the EU's intended remedial action.¹³

The decision to include a third country and targeted goods or technology in the scope of this restriction will be taken by the EU Council, acting unanimously.

Designation of Operators Frustrating EU Sanctions

Under the new sanctions, Article 3(1) of Regulation 269 was amended to include an additional criterion allowing the Commission to impose an asset freeze against persons or entities that significantly frustrate EU sanctions.¹⁴ Indications that the EU's restrictive measures are being frustrated could include:

- An assessment that the main activity of a third country operator consists of purchasing restricted goods in the EU that reach Russia
- The involvement of Russian persons or entities at any stage.
- The recent creation of a company for purposes related to restricted goods reaching Russia.
- A drastic increase in the turnover of a third country operator involved in such activities.

Under this new provision, the EU has imposed an asset freeze against a Russian company that manufactures computers and other electronic equipment. According to its entry in Annex I of Regulation 269, the Russian entity is actively involved in circumventing sanctions through its partnership with a Dutch entity. Even though the Dutch entity's assets were not frozen, this suggests that, while this tool will likely be used primarily against non-EU operators (which ordinarily do not have to comply with EU sanctions), EU entities could also be targeted under this provision.

¹² See recital 16 of Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

¹³ See recital 17 of Council Regulation (EU) 2023/1214 of 23 June 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

¹⁴ Additionally, the EU may also designate persons or entities operating in the Russian IT sector that hold a license administered by the FSB Center for Licensing, Certification, and Protection of State Secrets or a "weapons and military equipment" license administered by the Russian Ministry of Industry and Trade.

Information Exchange

The new sanctions provide for enhanced information exchange between EU member states, as well as with the EU Commission, on the application and enforcement of the EU's export restrictions.¹⁵ This includes information about any authorization granted or denied and, in the event of suspected forum shopping or other cases as appropriate, on requests for authorization that EU competent authorities have received. Information on infringements and penalties, detection and prosecution of unauthorized exports, as well as best practices of national enforcement authorities, are within the scope of the enhanced information exchange provisions.¹⁶

Derogations

Russian Exit Transactions

Regulation 269 provides a derogation allowing EU businesses to obtain authorisation from their national competent authority to engage in certain transactions with certain listed entities to allow for divestment from Russian companies and the disposal of certain types of securities held with the specified listed entities.

A derogation may also be granted by EU competent authorities regarding restricted business services (*e.g.*, accounting, auditing, including statutory audit, bookkeeping or tax consulting, business and management consulting or public relations, architectural and engineering, legal advisory and IT consultancy services) allowing EU businesses to continue providing the covered business services until 31 March 2024 where those services are strictly necessary for the divestment from or wind-down of business activities in Russia.

Energy

Due to Japan's energy security needs, the exemption for the transport by vessel, as well as related technical assistance, brokering services, financing or financial assistance, of crude oil from Russia to Japan in connection with the Sakhalin-2 project has been extended until 31 March 2024.

Additionally, to secure critical energy imports from third countries to the EU that are not prohibited, Regulation 833 provides derogations for national competent authorities to allow the transfer, export or transit through Russia of the goods and technologies and the provision of related assistance for the operation and maintenance of the Caspian Pipeline Consortium (CPC) pipelines.

¹⁵ See article 2, article 2a, and article 2b of Regulation 833.

¹⁶ See article 2d(1) of Regulation 833.

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Under Regulation 833, the ban on imports into the EU of Russian crude oil and petroleum products does not apply to crude oil delivered from Russia to EU member states by pipeline. However, Regulation 833 leaves the EU Council discretion to eliminate this exception. Under the new sanctions, as of 23 June 2023, this exemption no longer applies to Germany and Poland for the supply of crude oil by pipeline from Russia through the northern section of the Druzhba oil pipeline.¹⁷

Decoupling From Russian Control

Under Regulation 833, EU businesses that are owned or controlled by listed persons or entities may seek a derogation from their national competent authority to provide covered restricted business services that are strictly necessary to set up, certify or evaluate a firewall that terminates the listed person or entity's control of the assets of the non-listed EU entity and ensures that no further funds or economic resources accrue to the benefit of the listed person or entity.

A similar derogation is available under Regulation 269 for the release of certain frozen funds or economic resources belonging to, owned, held or controlled by listed persons or entities, or to provide services to such listed persons or entities if it is strictly

necessary to set up, certify or evaluate a firewall that terminates that person or entity's control of the assets of the non-listed EU entity and ensures that no further funds or economic resources accrue to the benefit of the listed person or entity.

If the EU competent authority grants the derogations described above, the EU business would be allowed to continue its business operations.

EU Exit Transactions

Under Regulation 833, EU competent authorities may authorize the provision of legal advisory services that are legally required for the completion of a sale or transfer of proprietary rights that are directly or indirectly owned by Russian entities in an EU entity. The derogation applies until 31 March 2024. The deadline for authorisations of certain sale, supply, transfer and export transactions in the context of Russia exits is still 31 December 2023.

Additional Restrictions on Russian Media Outlets

The EU extended the broadcasting suspension (media ban) to cover RT Balkan, Oriental Review, Tsargrad, New Eastern Outlook and Katehon.

¹⁷The import of oil that originates in Kazakhstan or another third country and is transiting through Russia via the Druzhba oil pipeline is not prohibited.