

TRADING

FREQUENTLY ASKED QUESTIONS – AS OF 13 MAY 2022

1. Is secondary trading of instruments between EU counterparties of sanctioned entities also suspended under Council Regulation (EU) No 833/2014?

Last update: 4 May 2022

Yes it is, but with the following caveat: for securities issued by Russia, its government, and Central Bank, or sanctioned entities, we distinguish between trade with securities issued before the dates indicated in respectively Article 5a and Article 5(1) to 5(4) of [Council Regulation \(EU\) No 833/2014](#) (allowed), and trade with securities issued thereafter (prohibited).

2. Can a bond issued by an entity subject to a refinancing prohibition under Article 5 of [Council Regulation \(EU\) No 833/2014](#) and held by an entity not targeted by sanctions be sold to another entity not targeted by sanctions?

Last update: 4 May 2022

Article 5 of Regulation 833/2014 clearly sets out which prohibition applies to which type of targeted entity. If the transferable securities or money market instruments were issued by a targeted entity between 1 August 2014 to 12 September 2014 with a maturity exceeding 90 days, or after 12 September 2014 with a maturity exceeding 30 days, or after 12 April 2022 irrespective of the maturity, EU persons or entities are prohibited from directly or indirectly purchasing, selling, providing investment services for or assistance in the issuance of, or otherwise dealing with these securities.

3. Can securities of private Russian entities not subject to the restrictions envisaged by Article 5 of [Council Regulation \(EU\) No 833/2014](#) still be traded?

Last update: 4 May 2022

Yes, they can in principle. It should however be verified that the entity is not subject to an assets freeze and prohibition to make funds and economic resources available to it or for its benefit under [Council Regulation \(EU\) No 269/2014](#), if it would be owned or controlled by a person listed in Annex I to said Regulation. Should that be the case, the trading on primary markets of its securities would be prohibited.

4. Does the currency-denomination in which instruments are traded make a difference for the prohibition enshrined in Article 5 of [Council Regulation \(EU\) No 833/2014](#)?

Last update: 4 May 2022

No, it does not. The prohibition covers all new securities or money market instruments, irrespective of the currency in which they are traded.

5. Is the dealing of derivative instruments with Russian investments suspended?

Last update: 4 May 2022

The restrictions under Article 5(1) to 5(4) apply also for derivative products where the underlying instrument/security falls under the scope of Article 1(f) of [Council Regulation \(EU\) No 833/2014](#). The restrictions apply for financial instruments issued after the dates indicated in Article 5(1) to 5(4) of Regulation 833/2014.

6. Is the dealing of derived instruments listed on the Moscow stock exchange suspended?

Last update: 4 May 2022

The listing venue as such is not relevant, since the restrictions imposed by Council Regulation (EU) No 833/2014 apply to all Member State nationals and Member State- incorporated or constituted companies, irrespective of where they are operating.

7. Are EU firms still allowed to trade (non-prohibited instruments) on Russian exchanges?

Last update: 4 May 2022

EU firms are still allowed to trade on Russian exchanges as long as the trading does not concern securities or derivatives issued by the Russian State, the Russian Central Bank, the banks or state-owned enterprises subject to a financing ban pursuant to Article 5(1) to Article 5(4) of [Council Regulation \(EU\) No 833/2014](#). Trading financial instruments issued before the relevant dates indicated in Article 5(1) to Article 5(4) is possible.

8. Are new admissions to trading/official listings of financial instruments of companies indicated in Article 5(5) of [Council Regulation \(EU\) No 833/2014](#) allowed on EU trading venues?

Last update: 4 May 2022

New admissions to trading/official listings on EU trading venues are not allowed.

9. Should existing financial instruments of companies indicated in Article 5(5) of [Council Regulation \(EU\) No 833/2014](#) be suspended or delisted from EU trading venues?

Last update: 4 May 2022

Article 5(5) of Regulation 833/2014 provides that as of 12 April 2022, EU trading venues can no longer list and provide services in relation to transferable securities of any legal person, entity or body established in Russia and with over 50% of public ownership. As of 12 April 2022 they cannot provide any services in relation to them, irrespective of their date of issuance.

10. [Council Regulation \(EU\) No 833/2014](#) prohibits the provision of a range of services with respect to the dealing of transferable securities and money-market instruments. What activities does this include? Are the provisions addressed to the operators of trading venues or eventually to the investment firms who provide services and perform activities related to securities?

Last update: 4 May 2022

Investment services and instruments covered by restrictions are specified in Regulation 833/2014.

Addressees are market participants, e.g. investment firms. As for trading venues, they may be impacted by the prohibition to admit new instruments to be traded or indirectly, by not suspending trading in prohibited instruments, which would enable their members to continue illegal trading.

11. What are the criteria to identify legal persons, entities or bodies acting on “behalf or at the direction of” pursuant to Article 5(1)(c) of [Council Regulation \(EU\) 833/2014](#) ?

Last update: 4 May 2022

The [Commission Opinion of 17 October 2019](#) provides guidance on how to determine whether an entity is acting on behalf or at the direction of an entity listed in Annex III to Regulation 833/2014. Generally speaking, ‘acting on behalf or at the direction of an entity’ is distinct from the notions of ownership and control. While ownership of or control over an entity is an element that can be considered to increase the likelihood of such conduct, they cannot suffice in determining whether an entity is acting on behalf or at the direction of another entity. EU operators should take into account all the relevant circumstances in order to assess the situation at hand.

12. Should index providers exclude from the index the securities of those subject to the trading restrictions pursuant to Article 5(5) of [Council Regulation \(EU\) No 833/2014](#)?

Last update: 4 May 2022

Article 5(5) of Regulation 833/2014 does not require EU benchmark administrators to withdraw or exclude securities from their indices. Nonetheless, product manufacturers making available products tracking such benchmarks will be subject to restrictions on the underlying securities which are themselves subject to sanctions. Benchmark administrators should adapt their benchmark compositions accordingly.

13. Do “investment services” include settlement services and corporate services provided by Central Securities Depositories (CSDs) and International Central Security Depositories?

Last update: 4 May 2022

Although the definition of “investment services” in [Directive 2014/65/EU](#) does not expressly refer to settlement and corporate services provided by CSDs, the latter fall within the scope of Article 5e of [Council Regulation \(EU\) No 833/2014](#) which prohibits Union’s Central Securities Depositories to provide any services for transferable securities issued after 12 April 2022 to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia. Furthermore, Article 5 covers the provision of investment services as well as the purchase, sale, assistance in the issuance of, or otherwise dealing with transferable securities.

14. Does Article 5(1) of [Council Regulation \(EU\) No 833/2014](#) cover existing securities or does it apply only to new securities (issued after 12 April 2022)?

Last update: 4 May 2022

It depends on whether the security was subject to previous sanctions or not. Please see the conditions set out under Article 5(1):

“It shall be prohibited to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 90 days, issued after 1 August 2014 to 12 September 2014, or with a maturity exceeding 30 days, issued after 12 September 2014 to 12 April 2022 or any transferable securities and money market instruments issued after 12 April 2022”.

15. Are American Depositary Receipts (ADRs) covered by the restriction envisaged by [Council Regulation \(EU\) No 833/2014](#)? If so, could they be cash settled?

Last update: 4 May 2022

Depository receipts should be treated like any other transferable securities, as defined in [Directive 2014/65/EU](#). In the context of Article 5 of Regulation 833/2014, transactions in ADRs should be considered as a way to indirectly purchase or sell transferable securities. Hence, any settlement of transactions on ADRs for which the underlying transferable security is subject to the provision of Article 5 or Article 5e, and irrespective of whether it is settled against cash or not, can be subject to the provisions of Articles 5 and 5e of Regulation 833/2014 if it fulfils the conditions specified therein.

16. What percentage of the affected financial instruments must a multi-asset product (e.g. ETF) contain to fall under the restrictions pursuant to Article 5 and Article 5a of [Council Regulation \(EU\) No 833/2014](#)?

Last update: 4 May 2022

Articles 5(1) to 5(4) and Article 5a(1) of Regulation 833/2014 prohibit to directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments of a number of legal persons, entities and bodies. Multi-asset products (e.g. ETF) shall not be exposed to any of these sanctioned securities and money-market instruments. In other terms, zero percent of the affected financial instruments (issued after 9 March for entities sanctioned by Article 5a(1)), or 12 April for entities sanctioned by Articles 5(1) to 5(4)) may be traded via ETFs.

17. Does the definition and interpretation of transferable securities in [Council Regulation \(EU\) No 833/2014](#) include bonds?

Last update: 4 May 2022

Yes, the definition of transferable securities under Article 1(f) of [Regulation 833/2014](#) includes bonds.

18. Does the ban in Article 5 of [Council Regulation \(EU\) No 833/2014](#) also apply to transferable securities denominated in a virtual currency?

Last update: 4 May 2022

Yes, transferable securities in the form of crypto-assets are also subject to the prohibition.

19. For an existing derivative contract (e.g. an interest rate swap) subject to daily margining requirements, is one party allowed to receive collateral that is contractually due even if the counterparty is a designated entity under [Council Regulation \(EU\) No 269/2014](#)?

Last update: 4 May 2022

In this situation, a designated entity is fulfilling a non-listed entity's margin call by making payments to that entity linked to an already concluded derivative contract with a non-listed entity. Forbidding such payments would result in the absence of transfer of funds owed by the designated entity to the non-designated entity, which would amount to a transfer of economic resources to the designated entity. Considering the wide interpretation of the notion of 'making economic resources available' to listed entities by the Court of Justice, this situation is not compatible with the restrictive measures taken vis-à-vis those designated entities. Non-designated entities can therefore receive collateral.

20. Can the Russian State pay coupons on its Eurobonds?

Last update: 4 May 2022

EU sanctions do not impose any impediments to receive income payments, dividend payments or principal repayments of existing securities from Russian issuers. The restrictive measures imposed by the EU in [Council Regulation \(EU\) No 833/2014](#) in relation to purchases of the securities issued by the Russian State, certain banks and corporations apply to purchases of securities issued after a certain date (i.e. 9 March 2022 for securities issued by the Russian State or the Russian Central bank).

21. Does [Council Regulation \(EU\) No 269/2014](#) allow secondary trading of securities issued by an entity subject to an asset freeze and prohibition to make funds and economic resources available to it or for its benefit?

Last update: 13 May 2022

Supposing the entity is not subject to securities transactions restrictions under Article 5 of [Council Regulation \(EU\) No 833/2014](#) (see answer 1), secondary market trading of its securities would not be forbidden. Securities traded on a secondary market cannot be considered as "belonging to, owned, held or controlled by" the entity, nor can their purchase be considered as making funds or economic resources available to that entity.

It should nonetheless be reminded that pursuant to Article 9 of Regulation 269/2014, it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the measures referred to in Article 2 of said Regulation. If you believe you are witnessing sanctions violations or circumvention, these can be reported to your

national competent authority or anonymously via the EU whistleblower tool.