COMMISSION CONSOLIDATED FAQs

on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014

Banking and Finance

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION
Financial Stability, Sanctions and Enforcement

Consolidated FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014

This document is a working document drafted by the Commission services to give guidance to national authorities, EU operators and citizens for the implementation and the interpretation of Council Regulation (EU) No 833/2014, Council Regulation (EU) No 269/2014, Council Regulation (EU) No 692/2014 and Council Regulation (EU) 2022/263. By analogy, the FAQs therein also apply to Council Regulation (EC) No 765/2006. Only the Court of Justice of the EU is competent to interpret EU law. National authorities and economic operators may make use of this guidance based on the text, context and purpose of the aforementioned regulations, to achieve the uniform application of sanctions across the EU.

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Last update: 20 December 2024

CONTENTS

A. HORIZONTAL

1. GENERAL QUESTIONS

RELATED PROVISION: COUNCIL REGULATION 833/2014; COUNCIL REGULATION 269/2014

1. **Will the Commission prepare further guidance?**
   Last update: 15 June 2022

In reaction to the invasion of Ukraine by Russia, the EU has agreed on a wide range of restrictive measures against Russian individuals and entities in order to cripple Russia's ability to finance the war and to impose painful costs on Russia's political elite responsible or otherwise instrumental for the realisation of this unprovoked military attack on its neighbouring nation. Beyond individual asset freezes, travel bans and visa restrictions, these restrictive measures comprise far-reaching trade restrictions in a number of economic sectors, as well as restrictions for activities in the financial sector.

In order to facilitate economic operators' compliance with the restrictive measures, the Commission keeps updating its FAQs and other developed tools such as the EU sanctions map.

2. **Is the Commission Guidance note on the implementation of certain provisions of Council Regulation (EU) No 833/2014 still applicable?**
   Last update: 8 April 2022

Yes it is.

3. **Does the European Commission provides for a consolidated text with all sanctioned individuals and entities, as well as with all the TARIC codes of the targeted goods?**
   Last update: 15 June 2022

As regards the list of all individuals and legal persons subject to an asset freeze, please note that the Commission manages a Consolidated List of all designations, which is up to date and available on the EU Sanctions map.

As regards the TARIC codes, the TARIC database is regularly updated in order to include all targeted goods.

4. **Can EU nationals be sanctioned?**
   Last update: 8 April 2022

Sanctions adopted pursuant to Article 215 TFEU are to pursue the objectives of the Common Foreign and Security Policy. In line with these objectives, it is for the Council to decide on the scope of sanctions, including on which persons - irrespective their nationality – are subject to these measures.

5. **What are the benefits of the sanctions for European citizens?**
   Last update: 8 April 2022

Since the beginning of Putin's aggression against Ukraine, many European citizens have shared their concerns about peace in Europe, shown solidarity with Ukrainian refugees and supported the need for Ukraine to receive political, financial and humanitarian assistance. By aiming to undermine the Kremlin's ability to pursue the invasion, sanctions are contributing to restoring peace in Ukraine and the region. Together with other EU policies, sanctions are a concrete means to uphold the EU values of human dignity, freedom, democracy, the rule of law and human rights.

6. **Sanctions are affecting ordinary people in Europe and Russia more than they affect politicians and decision-makers. What is the rationale behind imposing such sanctions?**
   Last update: 8 April 2022

Sanctions are targeted at the Kremlin and its accomplices. They aim at weakening the Russian government's ability to finance its war of aggression against Ukraine and are calibrated in order to minimise the negative consequences on the Russian population. In addition, sanctions are designed to maximise the negative impact for the Russian economy while limiting as much as possible the consequences for EU businesses and citizens.

Ensuring an effective and diligent implementation of sanctions is key to preventing circumvention. This is primarily the responsibility of Member States. In this process, the European Commission is fully committed to assisting them and ensuring a consistent implementation across the EU.

7. **Are EU citizens holding bank accounts in EU banks still allowed to make payments towards Russian nationals holding bank accounts in Russian banks? What about receiving money?**
   Last update: 8 April 2022

There is no general prohibition for EU citizens to make payments towards Russian nationals holding a bank account in a Russian bank. It is however important to make sure that a payment does not breach other prohibitions, for instance that it is not in favour of a natural person or entity designated under Council Regulation No 269/2014, or does not serve to settle a transaction prohibited under Council Regulation No 833/2014.

Receiving money for a deposit with an EU credit institution is only prohibited under the specific case laid down in Article 5(b)(1) of Council Regulation No 833/2014, whereby: "*It shall be prohibited to accept any deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds 100 000 EUR.*" This prohibition to accept deposits does not apply when the person making the deposit is a national of

a Member State, a country member of the European Economic Area or Switzerland, or a person having a temporary or permanent resident permit in one of these countries (Article 5b(2)). Deposits with EU credit institutions which are necessary for non-prohibited cross border trade in goods and services between the Union and Russia are allowed, even if they come from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia are also allowed (Article 5b(3)).

8. **I am a small entrepreneur based in the EU and I have a contract concluded with a legal entity registered in Russia. The contract dates from before the entry into force of the current sanctions. Can I still perform payments to the Russian entity under the current contract? Can I still receive payments ordered by the Russian legal entity?**
   Last update: 8 April 2022

There is no general prohibition for EU entrepreneurs to make payments towards legal entities registered in Russia. It is however important to make sure that the payment does not breach other prohibitions, for instance that it is not in favour of a natural person or entity designated under Council Regulation No 269/2014, or does not serve to settle a transaction prohibited under Council Regulation No 833/2014. Your national competent authority will assist you in determining whether any of the above is the case. To help you determine whether the counterparty to your contract is designated under Council Regulation No 269/2014, you may also check the EU Sanctions Map and use the "Search" function. Your national competent authority can further support in determining whether the goods or services that you deliver under the contract are subject to an export ban under Council Regulation No 833/2014.

There is also no general prohibition on receiving payment made by Russian legal entities.

Deposits on EU credit institutions ordered by a Russian legal entity are only prohibited under the specific case laid down in Article 5(b)(1) of Council Regulation No 833/2014, whereby: "*It shall be prohibited to accept any deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds 100 000 EUR.*" Importantly, this prohibition does not apply when the deposit is necessary for non-prohibited cross-border trade between the Union and Russia (Article 5b(3)). In other terms, if the goods or services that your provide your Russian client(s) with are non-prohibited trade under Council Regulation No 833/2014, you are not subject to any restriction for receiving payments from your client(s).

Should the object of your contract be the provision or acquisition of goods or services which are subject to respectively an export or an import ban under Council Regulation No 833/2014, please note that, depending on the goods or services in question, you might still be able to perform the contract and receive or make payments until a certain date, subject to the relevant provision in Council Regulation No 833/2014. Your national competent authority will then assist you in

determining, if at all, until which date you might be able to perform the contract, based on the goods or services that you trade.

9. **I am a Russian citizen with permanent residence in an EU Member State. I work as a freelancer. I have recently received a letter from my bank stating that my accounts were restricted due to my Russian nationality in the context of current sanctions. Does my bank have the right to restrict my accounts?**
   Last update: 8 April 2022

If neither you nor your client are a designated person under Council Regulation No 269/2014 and are not providing services whose trade is prohibited under Council Regulation No 833/2014, we see no reason why your bank should be restricting your account. The sanctions do not provide a legal basis to refuse payments to your account based on your Russian nationality. Further, as you have a permanent residence permit in an EU Member State, you are also exempted from the prohibition to receive deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia in case your account balance would exceed EUR 100 000, pursuant to Article 5 (b) (2) of Council Regulation No 833/2014.

You may want to contact your national competent authority in relation to the situation.

10. **I am an EU citizen having money in a euro-denominated bank account in a Russian bank. I would like to transfer my money out from the Russian bank, but my transfer order was rejected. Which are my options?**
    Last update: 8 April 2022

It is the role of your national competent authority to help you assess your options. The details provided here do not allow for an assessment of whether there might be a legal basis justifying that your transfer be rejected. With more details, your national competent authority will be able to assess the existence of such a legal basis, or absence thereof.

11. **I am a Russian citizen and I own an apartment in one EU Member State. I have been using regularly my bank account in an EU-based bank to pay the monthly utilities for the apartment, including annual taxes towards local authorities. The bank restricted my account and I am no longer able to receive money or order payments from this account. Is this a correct application of EU law?**
    Last update: 8 April 2022

If you not are a designated person under Council Regulation No 269/2014 and the money you seek to receive or transfer does not serve to settle the provision of goods or services whose trade is prohibited under Council Regulation No 833/2014, we see no reason why your bank should be restricting your account. The sanctions do not provide a legal basis to refuse payments to your account based on your Russian nationality. Further, if you have a permanent or temporary residence permit in an EU Member State, you are also exempted from the prohibition to receive

deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia in case your account balance would exceed EUR 100 000, pursuant to Article 5 (b) (2) of Council Regulation No 833/2014. Should you not have a permanent or temporary residence permit in an EU Member State, the bank should indeed not allow the credit of any incoming transfer that you as a Russian citizen would make towards it, if and only if your account balance would be in excess of EUR 100 000. In any event, the possibility of holding an account balance of up to EUR 100 000 would still leave you headroom for paying monthly utilities and taxes for your apartment.

You may want to contact your national competent authority in relation to the situation.

12. **Can European companies receive payments for services or products commissioned before the sanctions were put in place on Russian companies or individuals?**
Last update: 8 April 2022

Council Regulation (EU) No 269/2014 of 17 March 2014 prohibits EU operators from making any funds or economic resources available to persons designated under its Annex I, directly or indirectly, whether by gift, sale, barter or any other means, including the return of the listed person's own resources (Article 2(2)). In principle, and by way of example, an EU business is not allowed to sell or deliver products or services to those persons, even if in exchange for adequate payment. There are a number of exceptions (derogations) from this prohibition, including for prior contracts where a payment by a listed person is due under a contract or agreement concluded or an obligation that arose before the date on which that person was included in Annex I, and provided that the funds or economic resources will be used for a payment by the listed person and that the payment is not made to or for the benefit of a listed person (Article 6 of the Regulation). However, this is subject to a prior authorisation from the relevant national competent authority.

13. **Does Council Regulation (EU) No 833/2014 apply to contracts signed before 16 March 2022? Does it apply to the delivery of goods that were paid by Russian entities before 16 March 2022?**
Last update: 8 April 2022

It depends on the goods and the export-ban measure they are targeted by. Unless otherwise specified in the relevant provisions of Council Regulation (EU) No 833/2014, export bans apply as of the day of entry into force of the amendment. It is the role of your national competent authority to assist you in determining whether the goods you sell are targeted by an export ban.

14. **Does Council Regulation 883/2014 apply to Russian subsidiaries of EU parent companies?**
Last update: 8 April 2022

EU sanctions do not apply extra-territorially. In accordance with Article 13, the Regulation applies:

i. within the territory of the Union
ii. on board any aircraft or any vessel under the jurisdiction of a Member State
iii. to any person inside or outside the territory of the Union who is a national of a Member State
iv. to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State
v. to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Therefore, EU sanctions must be complied with by all EU persons – both natural and legal – and therefore by all EU incorporated companies, including subsidiaries of Russian companies in the EU. Russian branches of EU companies remain EU persons, and thus bound by the Regulation. By contrast, Russian subsidiaries of EU parent companies are incorporated under Russian law, not under the law of a Member State, hence they are not bound by the measures. However, it is prohibited for EU parent companies to use their Russian subsidiaries to circumvent the obligations that apply to the EU parent, for instance by delegating to them decisions which run counter the sanctions, or by approving such decisions by the Russian subsidiary.

15. **Due to sanctions imposed, Russian companies may not be capable of ordering payments towards companies in the European Union. How should the EU companies reflect this in their accounting systems? Are set offs against reciprocal debts and claims allowed?**
Last update: 8 April 2022

It is the responsibility of your national competent authority to provide you with guidance on how to reflect this in your accounting system.

16. **How should the term 'transfer' in the context of trade-related prohibitions be interpreted?**
Last update: 17 April 2022

The trade-related prohibitions in Council Regulation 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, are, as in most other sanctions regulations, drafted in a very broad way in order to ensure that a maximum array of operations around the actual export or import are prohibited. This means that, in addition to exports, EU sanctions also prohibit the sale and supply of the relevant products to specific categories of beneficiaries, or for use in specific territories; in addition to import, EU sanctions also prohibit

the purchase of the relevant products to specific categories of beneficiaries, or for use in specific territories. In both cases, the transfer of the relevant products, as well as brokering services, technical and financial assistance in relation to their purchase or sale are also prohibited.

Specifically, transfer is a broad concept covering a wide range of operations: not only the movement of goods through customs controls, but also the transport of goods, including (but not exhaustively) their loading and trans-shipment. The transfer prohibition applies not only in relation to an actual import or export (e.g. with the goods entering or exiting the EU customs territory), but also when those products do not enter the EU, but are transferred between Russia and a third country (and vice-versa). In such a case, EU operators are prohibited from providing transfer services as described above.

17. Does Council Regulation No. 883/2014 apply to EU branches of Russian parent companies?
Last update: 30 June 2022

A branch of a Russian parent company does not have legal personality on its own and is considered as an entity established in Russia. Therefore, the restrictive measures for Russian entities apply equally to a branch in the EU. Moreover, to the extent that the activity of the branch is carried out in the EU, it will be bound to respect EU sanctions itself.

18. What is the relationship between prohibitions in Council Regulation (EU) 269/2014 and Council Regulation (EU) 833/2014?
Last update: 2 July 2024

The prohibitions in both Regulations apply independently and must be complied with. Their respective applicability must be checked in parallel.

19. When an entity becomes listed in Council Regulation (EU) 269/2014, and is subject to a prohibition in Council Regulation (EU) 833/2014, can it still benefit from a derogation, or an exemption, provided for in Council Regulation (EU) 833/2014?
Last update: 2 July 2024

The prohibitions in both Regulations apply independently and must be complied with. If a derogation or exemption in Council Regulation (EU) 833/2014 is not mirrored in Council Regulation (EU) 269/2014, the prohibition in Council Regulation (EU) 269/2014 applies fully and it is not possible to rely on a derogation or exemption in Council Regulation (EU) 833/2014.

2. CIRCUMVENTION AND DUE DILIGENCE

RELATED ARTICLES: ARTICLE 12 OF COUNCIL REGULATION 833/2014; ARTICLE 9 OF COUNCIL REGULATION 269/2014; ARTICLES 2c AND 5 OF COUNCIL REGULATION 692/2014; and ARTICLES 5 AND 8 OF COUNCIL REGULATION 2022/263

1. **What standard of due diligence do EU operators have to observe to comply with the obligation to freeze assets and the prohibition to make resources available to listed persons and entities?**
   Last update: 5 April 2022

The applicable EU Regulations lay down on EU operators (and operators conducting business in the EU) an obligation of result regarding the obligation to freeze assets and the prohibition to make funds and economic resources directly or indirectly available. The underlying means (due diligence) used by the operators to ensure compliance with the above-mentioned obligations and prohibitions are not further specified in EU legislation. EU operators have to perform appropriate due diligence calibrated according to the specificities of their business and the related risk exposure. It is for each operator to develop, implement, and routinely update an EU sanctions compliance programme that reflects their individual business models, geographic areas of operations and specificities and related risk-assessment regarding customers and staff.

2. **What do you recommend in terms of due diligence to EU operators?**
   Last update: 5 April 2022

In our Q&A on due diligence for business with Iran, we have recommended a risk-based approach that consists of risk assessment, multi-level due diligence and ongoing monitoring.

Due diligence may in particular consist in screening of beneficiaries of funds or economic resources against sanctions lists & adverse media investigations. Adverse media investigations refer to searches on the internet and news (media investigations) to find evidence that a contractual counterpart, even if not designated (so it passes the screening against the sanctions list), is actually controlled by a designated persons (e.g. news on local press that a company is controlled by a Syrian businessperson) (adverse).

3. **The risk of circumvention of export bans via countries that have not joined the efforts of the EU and its partners is elevated. What is the European Commission doing to ensure that Russia does not evade sanctions in this way?**
   Last update: 5 April 2022

Article 12 of Council Regulation (EU) No 833/2014 provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation. Enforcing such provisions is first and foremost a matter for the

national enforcement authorities and any tips or information regarding possible circumvention should be actively reported to them.

In line with this national enforcement competence, the Commission will liaise with the National Competent Authorities of the Member States if it receives information regarding possible circumvention. Finally, the Commission has recently launched an EU whistleblower tool enabling the anonymous reporting of possible sanctions violations, including circumvention.

4. **It can be very tricky for companies/investors to identify owners of companies in order to check whether any of these are sanctioned. This is especially relevant for Russian companies or funds as ownership is often hidden in holding companies, owned by other holding companies etc. Will the Commission provide guidance on what constitutes reasonable efforts on part of companies to identify sanctioned parties in a company structure?**
   Last update: 5 April 2022

Assessing the beneficial ownership of a business counterpart is a due diligence duty. There is no one-size-fits-all model of due diligence. It may depend – and be calibrated accordingly – on the business specificities and the related risk exposure. It is for each operator to develop, implement, and routinely update an EU sanctions compliance programme that reflects their individual business models, geographic and sectoral areas of operations and related risk assessment. Such sanctions compliance programmes can assist in detecting red flag transactions that can be indicative of a circumvention pattern.

5. **Is an EU bank required to screen its open account transactions for possible infringement of EU trade restrictions? If so, how must this screening be organised operationally?**
   Last update: 11 December 2024

Compliance with trade-related sanctions (e.g. dual-use exports, oil exploration equipment, high tech goods and technology) is not limited to the operators initiating such trade (e.g. exporters, brokers…), but is also a responsibility of the banks processing the related payments. Banks can tailor their compliance programmes to specific risks identified in relation to certain transactions or parties involved, such calibration being then more risk-based than systematic.

6. **If the assets of a person listed under Council Regulation (EU) No 269/2014 were transferred to an EU operator before that person's listing, can the operator be held accountable for having accepted them?**
   Last update: 11 December 2024

If a certain structure was created in order to assist a person to evade the effects of its possible

future listing, then current, ongoing participation in that structure can amount to circumvention of the restrictive measures, if done knowingly and intentionally. Circumvention is prohibited under Article 9 of Council Regulation (EU) No 269/2014. Article 9 can be breached even if the freezing of assets is not discontinued and no assets reach or benefit the now-listed person; mere participation in a structure created for that purpose can be considered as a breach. For clarifications on the cumulative requirements of knowledge and intent, see question 9.

7. **Could you clarify how the violations of articles 12 of Council Regulation 833/2014 and 1m of Council Regulation 765/2006, both concerning circumvention, are being determined in practice and which authority is responsible for undertaking such a task?**
   Last update: 11 December 2024

Articles 12 of Council Regulation (EU) No 833/2014 and Article 1m of Council Regulation (EU) No 765/2006 prohibit to, knowingly and intentionally, participate in activities the object or effect of which is to circumvent prohibitions in the Regulations. Thus, the threshold is acting with knowledge and intent to circumvent a prohibition included in the Regulations. This provision applies on the territory of the EU and to all EU persons. For clarifications on the cumulative requirements of knowledge and intent, see question 9.

It falls within the competencies of the national competent authority of the EU Member State in question to decide on possible cases of circumventions within their jurisdiction. In addition, enforcing sanctions provisions is first and foremost a matter for the national enforcement authorities and any tips or information regarding possible circumvention should be actively reported to them.

For specific questions, we advise to contact the relevant national competent authority. You find a list of national competent authorities for each EU Member State here: https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/national-competent-authorities-sanctions-implementation_en.pdf.

8. **Can a national competent authority reject a request for an authorisation envisaged under one of the derogations in Council Regulation (EU) No 269/2014 or Council Regulation (EU) No 833/2014 on the basis of reasonable grounds to suspect that the authorisation will be used to circumvent sanctions?**
   Last update: 30 June 2023

Yes, national competent authorities must take into account credible indications of circumvention when assessing and deciding on a request for authorisation envisaged under the derogations in Council Regulation (EU) No 269/2014 or Council Regulation (EU) No 833/2014.

Therefore, a national competent authority may decide to reject a request for authorization for a variety of reasons, including on the basis of reasonable grounds to suspect that the authorization will be used to circumvent sanctions.

This could be the case, for example, when the national competent authority holds information (acquired through confidential or public sources) suggesting that a party in a transaction subject to authorisation is engaged in the circumvention of sanctions or that certain elements of the transactions are suspicious (e.g. the price is abnormally low or one or more of the parties cannot be identified).

9. In the context of the anti-circumvention clauses, what is the meaning of "knowingly and intentionally"?

Last update: 11 December 2024

Article 9 of Council Regulation (EU) No 269/2014 and Article 12 of Council Regulation (EU) No 833/2014, commonly known as 'anti-circumvention clauses', prohibit EU operators from participating, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibitions set out in each Regulation.

In the judgment it rendered on 21 December 2011 in Case C-72/11[1], the Court of Justice of the European Union clarified that, in the context of EU sanctions law, the requirements of knowledge and intent are met not only where a person deliberately seeks the object or effect of circumventing sanctions but also where a person participating in an activity having that object or effect is aware that such participation may have that object or that effect, and accepts that possibility.

The interpretations given by the Court of Justice to the standard anti-circumvention clause is to be applied in all sanctions regimes and from their adoption.

However, on 24 June 2024, as part of the 14th sanctions package on Russia, the Court's interpretation was codified into the sanctions regimes concerning Ukraine's territorial integrity, sovereignty and independence, thereby ensuring that the existing anti-circumvention clauses in Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014 are textually aligned with it.

10. How does the non-liability clause apply? What does it mean in terms of due diligence standards?

Last update: 11 December 2024

Paragraph 2 of Article 10 of Council Regulation (EU) No 269/2014 and Article 10 of Council Regulation (EU) No 833/2014, commonly known as 'non-liability clauses', indicate that actions by EU operators do not give rise to any liability of any kind on their part if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in each Regulation.

[1] Case C-72/11 Criminal proceedings against Mohsen Afrasiabi and Others, EU:C:2011:874.

On 24 June 2024, as part of the 14th sanctions package on Russia, recital 3 of Council Regulation (EU) 2024/1739 and recital 36 of Council Regulation (EU) 2024/1745 clarified that the protection against liability cannot be invoked where the EU operator has failed to carry out appropriate due diligence. The two provisions moreover add that publicly or readily available information should be duly taken into account when carrying out such due diligence. Therefore, for example, an EU operator should not be able to successfully invoke such protection when it is accused of breaching the relevant sanctions because it has failed to carry out simple checks or inspections.

Due diligence should be proportionate and include various controls at several levels of the transaction. At a minimum, it should include:

- Screening of all parties to the transaction: the beneficial owner (customer) and also indirect parties (suppliers, service providers, transporters, banks);
- Control of the goods and services, including whether the goods – finished product or components – are subject to other control regulations (dual-use, military);
- Risk analysis of the transaction: on the contractual documentation; rationale for the transaction; financial flows; shipment route; end-use of the goods; risk of diversion of the goods.

These checks and inspections are part of the ‘strategic risk assessment' that operators should implement. For more information, please see the Commission's guidance on due diligence:

Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention - guidance-eu-operators-russia-sanctions-circumvention_en.pdf

3. EXECUTION OF CONTRACTS AND CLAIMS

RELATED PROVISION: TRADE RELATED ARTICLES; ARTICLE 11 OF COUNCIL REGULATION 833/2014

1. **What is a contract in the context of sanctions regimes against Russia and Belarus?**
   Last update: 8 April 2022

The term 'contract' refers to a binding commitment between parties. Such an agreement should contain all the necessary elements for its validity and the execution of a transaction (such as indication of the parties, price, quantities, delivery dates, modalities of execution, etc.) Most framework contracts which do not specify the quantities or the price would therefore not be considered as a contract for the purpose of the exceptions foreseen for the execution of prior contracts.

2. **Can framework contracts be considered as contracts which may benefit from the prior contracts exception?**
   Last update: 13 June 2022

Where framework contracts do not specify the exact quantities, precise price or delivery date, they cannot benefit from the exceptions. Usually, framework agreements do not contain all the necessary elements for the execution of a transaction (such as price, quantities, deliver dates, modalities of execution etc.). This means that their implementation requires subsequent signature of new and specific contracts.

3. **What is an "ancillary contract"?**
   Last update: 13 June 2022

An "ancillary contract" is a contract necessary for the execution of another (principal) contract, that is, a contract without which the main contract cannot be executed, such as insurance, financing etc.

However, the execution of ancillary contract must not lead to circumvention of the regulation. For example, a contract on transportation would not be covered by the ancillary contract exception since it would fall under the prohibition of "transfer" or "transport".

4. **Does a separate annex signed after 2 March 2022, which defines the quantity and price of goods for a pre-existing framework contract, fall under the "ancillary contract" definition?**
   Last update: 13 June 2022

No. The specification of quantity and price of goods is an essential element of a purchase contract and has to be determined before 2 March 2022. A separate annex is not an ancillary contract, but part of the main contract. If the separate annex that specifies essential contract elements was signed on or after 2 March 2022, it is considered a new contract.

5. **Is an extension of a contract considered an "ancillary contract"?**
   Last update: 13 June 2022

No. The prolongation (whether tacit or explicit) of a contract is considered a new contract. Consequently, for example, an import based on a contract extended on or after 2 March 2022 (or executed after 4 June 2022) is prohibited.

6. **Are automatic renewals of contracts signed before 2 March 2022 permitted?**
   Last update: 13 June 2022

No. The tacit prolongation of a contract is treated as a new contract and is therefore prohibited.

7. **In Article 11 of Regulation (EU) 833/2014, do the "claims" in connection with any contract or transaction, the performance of which has been affected by the compliance of this Regulation, include the liquidation of financial instruments, such as mutual fund shares by any Russian citizen or natural person residing in Russia, or legal entity/ body established in Russia? If so, under which conditions?**
   Last update: 24 May 2022

Article 11 relates to claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly by Regulation (EU) 833/2014, made by a counterpart referred to in Article 11(1) under (a), (b) or (c), who would have suffered an alleged damage due to the compliance with the Regulation by an EU operator - for example if a contract with this counterpart cannot be fulfilled or was terminated due to the restrictive measures. This Article seeks to protect EU operators from having to satisfy damage claims of any types in connection with such contract or transaction, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, notably a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form.

Without prejudice to other restrictive measures that may affect certain financial instruments, the EU operator would not be required to satisfy a request for liquidation of a financial instrument, if such liquidation relates to payment of a bond, guarantee or indemnity referred to in Article 11.

Please note also that if the Russian person is targeted by measures freezing that person's funds and economic resources (e.g. via Regulation (EU) 269/2014), the applicable Regulation will, in principle, prevent the liquidation of financial instruments of that Russian person.

8. **Are the claims coming from non-Russians residents in Russia also covered by the protection offered in Article 11(1)b?**
   Last update: 13 June 2022

Article 11 protects EU operators against claims by "any other Russian person, entity or body". Considering the objective of that provision which is to offer protection to those implementing EU sanctions, its wording and context, "Russian person" must be understood as including Russian nationals and Russian residents which are nationals of other States.

9. **Article 5l of Council Regulation 833/2014 prohibits to keep executing certain contracts with Russian entities. How does it affect the due payments to these entities and will I have to pay interests for the damages caused?**
   Last update: 26 August 2022

According to Article 5l of the Regulation, it is prohibited to provide direct or indirect support, including financing and financial assistance or any other benefit under a Union, Euratom or Member State national programme and contracts to any legal person, entity or body established in Russia with over 50 % public ownership or public control. It must therefore be understood that payments prohibited by Article 5l must be withheld while the sanctions are in force. Interests claimed by Russian contractual counterparts for alleged damages originating by this prohibition qualify as a form of compensation. Hence, they cannot be satisfied if brought forward by the persons indicated in Article 11(1)(a)-(c). See also Question 6.

10. **When an article of Council Regulation 833/2014 provides for an exception allowing for the execution of a prior contract until a specific date, does it allow for the payment on the basis of such contract by the EU operation to its Russian counterpart after this date?**
    Last update: 26 August 2022

It is the Commission's view that an exception allowing for the execution of prior contracts until a specified date would not allow for a payment to be made to the Russian counterpart beyond that date. Since the payment is part of the execution of the contract, EU operators are prohibited from

making such a payment thereafter, even if the goods originating in Russia have already been received. Questions on the concrete application of EU sanctions in specific cases should be addressed to the relevant national competent authority.

4. "BEST EFFORTS" OBLIGATION

RELATED PROVISION: ARTICLE 8a of COUNCIL REGULATION 833/2014

1. **What does the concept of "best efforts" mean, in the context of Article 8a?**
   Last update: 22 November 2024

Article 8a should be read in light of recitals 27, 28, 29 and 30 of Regulation 2024/1745. In particular, the concept of "best efforts" is detailed in recital 30:

> *'Best efforts should be understood as comprising all actions that are suitable and necessary to achieve the result of preventing the undermining of the restrictive measures in Regulation (EU) No 833/2014. Those actions can include, for example, the implementation of appropriate policies, controls and procedures to mitigate and manage risk effectively, considering factors such as the third country of establishment, the business sector and the type of activity of the legal person, entity or body that is owned or controlled by the Union operator. At the same time, best efforts should be understood as comprising only actions that are feasible for the Union operator in view of its nature, its size and the relevant factual circumstances, in particular the degree of effective control over the legal person, entity or body established outside the Union. Such circumstances include the situation where the Union operator, due to reasons that it did not cause itself, such as the legislation of a third country, is not able to exercise control over a legal person, entity or body that it owns.'*

2. **What does the concept of "undermining" mean, in the context of Article 8a? What is the difference between "circumventing" and "undermining"?**
   Last update: 22 November 2024

The concept of "undermining" is exemplified in recital 29 of Regulation 2024/1745. While "circumventing" involves activities that, under cover of a formal appearance which enables them to avoid the constituent elements of an infringement of a restrictive measure, have the aim or result of enabling their author to avoid the application of that measure[2], "undermining" involves activities "*resulting in an effect that [the] restrictive measures seek to prevent, for example, that a recipient in Russia obtains goods, technology, financing or services of a type that is subject to prohibitions under Regulation (EU) No 833/2014*".

3. **Does Article 8a also cover Russia-based entities that are owned or controlled by an EU operator?**
   Last update: 22 November 2024

[2] Case C–72/11 Criminal proceedings against Mohsen Afrasiabi and Others [2011] ECR I-14285, paragraphs 60 and 68.

Yes. The obligation in Article 8a, binding on EU operators, concerns entities that are owned or controlled by these EU operators and located anywhere outside the EU – including in Russia.

4. How is Article 8a to be applied when doing so is prevented by the laws of the third country where the owned or controlled entity is incorporated?
Last update: 22 November 2024

Recital 30 of Regulation 2024/1745 indicates that the best efforts required from the part of EU operators should be understood as comprising only actions that are feasible for each EU operator in view of (i) its nature, (ii) its size and (iii) the relevant factual circumstances. The precise scope of best efforts that can be expected from each EU operator will differ on a case-by-case basis.

The factual circumstances to be taken into account include, in particular, the degree of effective control over the non-EU entity in question. Recital 30 explicitly mentions the situation where, due to reasons that the EU operator did not cause itself, such as the legislation of a third country, an EU operator is not able to exercise control over an entity that it owns. In principle, where control is entirely absent, the EU operator cannot be expected to have any power to prevent that the non-EU entity that it owns participates in activities that undermine the sanctions.

Conversely, this mitigation of liability does not apply if control over the non-EU entity is lost for reasons that the EU operator caused itself. In this respect, operators should be aware that Russia is a country where the rule of law is virtually not applied anymore [3], and that the Russian state has adopted several pieces of legislation unjustly targeting assets of companies from 'unfriendly countries', including EU Member States[4]. In such circumstances, inadequate risk assessment and management, coupled with risk-prone decisions of the EU operator, can be considered as a factor that contributed to the loss of control[5].

[3] By way of example, on 6 March 2022 Russia amended Article 1360 of the Russian Civil Code to enable its authorities to license patents of EU operators to Russian businesses, without the obligation to compensate the former. This means that Russian companies can infringe patents and related IPRs of EU operators without consequences. Moreover, since 2020, when Article 248 of the Commercial Code of Russia was amended by Russian Federal Law No. 171-FZ, Russian companies can request Russian court to establish jurisdiction over disputes involving EU and Russian "sanctioned parties", even if those parties agreed competence for their disputes to non-Russian courts or arbitral panels; or issue an injunction prohibiting the EU operator to commence or continue a foreign litigation or an arbitration seated abroad.

[4] Presidential Decree No. 302 of the Russian Federation of 25 April 2023, that established a legal framework to authorize the Government to take control of Russian assets owned or managed by investors associated with "unfriendly" foreign States; Federal law No. 470-FZ, "On Specifics of Corporate Governance in Business Companies which are Economically Significant Organizations.

[5] This is without prejudice to the measures that the Council has adopted to protect Member State operators from damages caused by illegitimate actions of the Russia persons; the fact that a Member States company may have miscalculated the risk of their presence of the Russian market does not exclude their right to receive

The factual circumstances may also include, for instance, the risk incurred by executives and employees of the non-EU entity in question to be prosecuted under the laws of the third country of incorporation. This risk is to be assessed on a case-by-case basis.

5. **How can EU operators sufficiently show they undertook their best efforts within the meaning of Article 8a?**
   Last update: 22 November 2024

As indicated above (see Questions 1 and 4), the depth and complexity of actions expected from each EU operator depend on the operator's (i) nature, (ii) size and (iii) the relevant factual circumstances.

The operator's nature and size reflect various elements such as its market sector, risk profile and turnover, and, for entities, the number of staff. Apart from the degree of effective control over the non-EU operator, the relevant factual circumstances include the compliance resources available to the operator. Such elements should be taken into consideration together. For example, even if an operator is relatively small in size, the fact that it operates in a highly regulated sector with abundant compliance resources means that substantial actions are to be expected.

In practice, EU operators should seek to ensure their awareness of the activities conducted by the non-EU entity that they own or control, and the entity's understanding of the types of activities that risk undermining EU sanctions and thus exposing the EU operator to a breach of Article 8a. Depending on the specific characteristics of the EU operator, this could be achieved, for instance, through internal compliance programs, systematic sharing of corporate compliance standards, sending newsletters and sanctions advisories, setting up mandatory reporting or organising mandatory sanctions trainings for staff, as well as setting up procedures to rapidly react to sanctions violations, including by reporting them to the EU operator that has ownership or control. In addition, the non-EU entity may consider publicly stating its intent not to engage in any activities that risk undermining EU sanctions or the compliance and governance policies of the EU operator that has ownership or control.

The Commission will engage with Member States towards preparing a clear set of expectations for EU operators, thus enabling the latter to comply with their obligations and ensuring a level playing field across the EU.

6. **Coupled with other provisions in Regulation 833/2014, such as Article 10 or Article 12, should Article 8a be understood as creating liability for an EU operator that is**

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compensation from the Russian persons or entities responsible for the damage suffered or protection from illegal actions of the Russian persons.

merely aware of the activities of the non-EU entity that it owns or controls, and accepts them?
Last update: 22 November 2024

If an EU operator is aware that the activities of a non-EU entity that it owns or controls undermine EU sanctions and accepts these activities, that amounts to a breach of Article 8a, as the EU operator cannot be considered to have performed all actions necessary and feasible to prevent the undermining of EU sanctions by the non-EU entity. Moreover, it may also amount to a breach of Article 12 of Regulation 833/2014, as amended by Regulation 2024/1745. In this context, it should be noted that recital 36 of Regulation 2024/1745 clarifies that the protection against liability set out in Article 10 of Regulation 833/2014 cannot be invoked where EU operators have failed to carry out appropriate due diligence. In the context of Article 8a, such due diligence includes ensuring their awareness about the activities of non-EU entities that they own or control.

7. **If an EU operator owns or controls an entity in Russia or in another third country, which produces and/or exports goods covered by an EU export ban, would the EU operator run afoul of Article 8a if these goods ended up in Russia?**
Last update: 22 November 2024

EU sanctions do not impose obligations on such an entity in Russia or another third country. Obligations are imposed only on EU operators owning or controlling such entity. Thus, if the goods in question are produced on the basis of, for example, intellectual property rights or trade secrets that the EU operator transferred to the non-EU entity, and the EU operator owns or controls that entity at the time of the supply to Russian clients and does not act to prevent such supply, including by blocking the use of intellectual property rights or trade secrets, then the EU operator cannot be considered to have performed all actions necessary and feasible to prevent the undermining of EU sanctions by the entity, as required by Article 8a.

The timing of the transfer of such intellectual property rights or trade secrets is not relevant towards the application of Article 8a, as long as the EU operator retains the power to block further use thereof. Concretely, even if the transfer of the intellectual property rights or trade secrets related to sanctioned goods and technology was made before those sanctions came into effect (e.g. before the relevant item became subject to an export prohibition), the undermining of sanctions by a non-EU entity on the basis of that prior transfer would render the EU operator owning or controlling the entity in violation of Article 8a.

For the situation where the EU operator is no longer able to exercise control over a non-EU entity that it owns, see Question 4.

8. **If an EU operator owns or controls an entity in Russia, which produces, and/or exports goods covered by an EU export ban, would the EU operator run afoul of Article 8a if these goods ended up in Belarus?**
   Last update: 22 November 2024

If the final destination of the goods is truly Belarus, this activity could constitute a breach of the "best efforts" obligation on the EU operator as set out in Article 8i of Council Regulation (EC) No 765/2006.

9. **If an EU operator owns or controls an entity in Russia, which produces and/or exports goods covered by an EU import ban, would the EU operator run afoul of Article 8a if this entity supplied such goods to non-EU entities? Does it make a difference if these non-EU entities are owned or controlled by the same EU operator (i.e. intra-group transfers)?**
   Last update: 22 November 2024

The aim of import bans is to weaken Russia's economic base and curtail its ability to wage war, by depriving it of critical markets for its products. If non-EU entities owned or controlled by an EU operator continue trading in restricted goods produced in Russia, thus creating additional revenue for the Russian economy, then, in principle, the EU operator cannot be considered to have performed all actions necessary and feasible to prevent the undermining of EU sanctions by these entities, as required by Article 8a.

B. INDIVIDUAL FINANCIAL MEASURES

1. ASSET FREEZE AND PROHIBITION TO MAKE FUNDS AND ECONOMIC RESOURCES AVAILABLE

RELATED PROVISION: COUNCIL REGULATION 269/2014

1. **Do the sanctions in Article 2 of Council Regulation (EU) No 269/2014 apply to the companies owned, controlled, managed by or otherwise associated with listed persons?**
   Last update: 8 April 2022

Only the persons and entities listed in Annex I to the Regulation are directly targeted by sanctions.

However, if the listed person is deemed to own or control a non-listed entity, it can be presumed that the control also extends to the assets of that entity, and that any funds or economic resources made available to that entity would reach or benefit the listed person.

This presumption can be rebutted on a case-by-case basis by the entity concerned, if it can be demonstrated that some or all of its assets are outside the control of the listed person, and/or that funds or economic resources made available to it would in fact not reach or benefit the listed person.

For further details on 'control', please see the Commission opinion of 19 June 2020 and the Commission opinion of 8 June 2021.

2. **Article 2 of Council Regulation (EU) No 269/2014 refers to legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I. Where can I find the 'natural or legal persons, entities or bodies associated with them'?**
   Last update: 8 April 2022

Strictly speaking, only the persons and entities who/which appear under the column 'Name' in Annex I to Council Regulation (EU) 269/2014 are directly subject to an asset freeze and a prohibition to make funds and economic resources available to them or for their benefit. However, these restrictions can affect transactions with natural or legal persons, entities or bodies associated with them, some of which happen to be mentioned in the 'Identifying information' and/or 'Reasons' columns of Annex I to Council Regulation (EU) 269/2014. Operators need to exert the highest caution when dealing with associated persons or entities. If non listed entities are deemed to be owned or controlled by listed persons or entities, their assets must be frozen as well, and no funds or economic resources can be made available to them.

This presumption can be rebutted on a case-by-case basis by the entity concerned, if it can be demonstrated that some or all of its assets are outside the control of the listed person, and/or that funds or economic resources made available to it would in fact not reach or benefit the listed person.

3. **Is there a list of the ownership percentages of firms owned by people on the sanctions' list?**
   Last update: 8 April 2022

No, this is a task for EU credit institution's compliance and due diligence departments. Some guidance on ownership/control can be found in EU Best Practices. On that basis, it is possible to know which other firms than the banks, state-owned entities or other entities in the Annexes are affected by the restrictive measures. These should not be financed either directly or indirectly.

4. **Can funds or economic resources be considered as being made available to a listed person via an entity he/she neither owns nor controls?**
   Last update: 8 April 2022

If the entity is neither owned nor controlled by the listed person, then the presumptions referred to in Question 1 do not apply to it. In that case, the entity as such is in principle not affected by the asset freeze or the prohibition to make funds or economic resources available to it.

However, it cannot be ruled out that funds or economic resources might be made indirectly available to listed persons via an entity which they neither own nor control (e.g. but is acting as an intermediary). This is to be assessed on a case-by-case basis, if there are indications of a possible sanctions breach.

5. **If, before the listing took effect, the assets of a listed person were transferred to a non-listed third person (e.g. a family member), do the assets still need to be frozen?**
   Last update: 8 April 2022

Article 2(1) of Council Regulation (EU) No 269/2014 does not apply retroactively. However, it does require the freezing of all assets currently belonging to, or held, owned or controlled by listed persons. If, at the time of the assessment, there are reasonable grounds to believe that certain assets "belong to" or are "controlled by" the listed person, even if they are nominally owned by someone else, then these assets must be frozen under Article 2(1). It does not matter when the assets were transferred.

In what regards the assessment, the criteria exemplified in the past by the Commission in the context of 'control' were non-exhaustive. In situations involving third persons (and possible family ties), other elements could also be taken into account, such as:

- the closeness of business and family ties between the listed person and the third person;
- the professional independence of the third person now owning the assets;
- previous gifts given to the third person and how they compare to the transaction in question;
- the frequency/regularity of previous gifts to the third person;
- the content of formal agreements between the listed person and the third person;
- the nature of the assets (e.g. whether these are shares in a company owned or controlled by the listed person).

6. **Does the EU owner of shares or bonds in a company subject to an asset freeze as a result of its ownership or control by a listed person have a duty to freeze these shares or bonds?**
   Last update: 8 April 2022

Since the owner of the shares is the EU operator, not the listed person, no freezing is necessary as such under Article 2(1) of Council Regulation (EU) No 269/2014.

7. **Can the EU owner of the shares or bonds of a listed company sell them?**
   Last update: 8 April 2022

If the sale does not result in making funds or economic resources available to the listed company or for its benefit, it is allowed. However, it would be prohibited if the buyer were the company itself or any other person targeted by EU restrictive measures such as those in Article 2 of Council Regulation (EU) No 269/2014. Furthermore, the transaction must not breach Article 5 or Article 5e of Council Regulation (EU) No 833/2014.

8. **Aggregate ownership: If two or more listed persons are each minority shareholders of a non-listed entity, but their aggregate ownership amounts to 50% or more of that entity, should that entity be considered as owned by listed persons?**
   Last update: 5 September 2024

One should take into account the aggregated ownership of the entity. For example, if one listed person owns 30% of the entity and another listed person owns 25% of the entity, the entity should be considered as owned by listed persons.

9. **A listed person is deemed to control a business group that also includes a listed entity. Should the assets of all the companies belonging to the group be considered as controlled by the listed person and accordingly be subject to restrictions under Article 2 of Council Regulation (EU) No 269/2014?**
Last update: 8 April 2022

If control of the listed person over the group as a whole is determined, then the conclusion can extend to all subsidiaries within the group. If control of the listed person was determined over a single entity in the group (e.g. the listed entity), then this would impact its own subsidiaries, but not other subsidiaries in the wider group.

10. **If an EU citizen provides manual or intellectual labour to an EU entity that is owned or controlled by a listed person, would that be considered as making economic resources available indirectly to the listed person?**
Last update: 8 April 2022

As indicated in the Commission opinion of 19 June 2020, the Commission is of the view that working for an owned or controlled entity can be considered as making economic resources indirectly available to the listed person exerting ownership/control over that entity insofar as this labour enables the listed person to obtain funds, goods, or services. The latter assessment is for the national competent authority to make.

11. **Does the derogation in Article 6 of Council Regulation (EU) No 269/2014 allow for the payment of salaries of EU citizens by entities located in Member States considered to be owned or controlled by a listed person?**
Last update: 8 April 2022

Assets of an owned or controlled entity that are frozen because they were deemed to be controlled by the listed person can be released on the basis of an authorisation granted in line with Article 6 of Council Regulation (EU) No 269/2014, if the conditions specified therein are fulfilled, notably that payment is due under a contract or agreement that was concluded or an obligation that arose before the date on which the person was listed in Annex I to that Regulation; the frozen funds are used for a payment by a listed person (or in this case the owned/controlled entity), and the payment is not made towards any listed person.

12. **For an existing bond, are non-listed entities entitled to receive payments so the listed entity can meet its contractual obligations to pay interest and principal?**
Last update: 8 April 2022

In such a case, the payment could be made to a non-listed entity if an authorisation is granted by the national competent authority, pursuant to Article 6 of Council Regulation (EU) No 269/2014,

whereby: "*By way of derogation from Article 2 and provided* ***that a payment by a natural or legal person, entity or body listed in Annex I is due under a contract or agreement that was concluded by, or under an obligation that arose for the natural or legal person, entity or body concerned, before the date on which that natural or legal person, entity or body was included in Annex I,*** *the competent authorities of the Member States may authorise, under such conditions as they deem appropriate, the release of certain frozen funds or economic resources, provided that the competent authority concerned has determined that: (a) the funds or economic resources shall be used for a payment by a natural or legal person, entity or body listed in Annex I; and (b) the payment is not in breach of Article 2(2).*" The Regulation does not prohibit a general authorisation for payments to all holders of the security/bond, provided that the national competent authority can ascertain that all the payments comply with the conditions in Article 6 of Council Regulation (EU) No 269/2014.

13. Do public entities responsible for the administration of state registries (ministries and state-owned companies) have the right to decide themselves on whether some property is indirectly owned by sanctioned persons and freeze it immediately, without referring the case to the authority responsible for the implementation of financial sanctions under national law?

Last update: 8 April 2022

The obligation to freeze the assets is activated as soon as the public entity holding the assets has reasonable grounds to believe that these are owned or controlled by a listed person. Prompt application of the sanctions is key to preventing asset flight. It is however recommended to ensure coordination with the authority responsible for the implementation of financial sanctions, which may have further information and investigative tools enabling a definitive assessment of ultimate beneficial ownership.

14. If a national competent authority freezes the funds of a company owned by a listed person and the company has no possibility to buy resources necessary for its operation, is there a possibility for temporary administration of the company by the state or involvement of state representatives in its management, without the objective of making profit, but to avoid worsening its business condition during the asset freeze?

Last update: 8 April 2022

Sanctions in general and asset freezes in particular do not entail expropriation and are of a temporary nature. Furthermore, EU operators and institutions holding frozen assets should avoid outcomes causing a disproportionate prejudice to the listed person, which would go beyond the objectives of restrictive measures. It is for the national competent authority to determine how to fulfil and monitor this objective, on a case-case by basis.

15. What measure (if any) should competent authorities adopt in respect of listed shareholders with qualifying holdings in an EU bank? Is the freezing of voting rights appropriate/required? In that case, should a proportionality approach be applied, e.g. by starting with increased monitoring of governance?
Last update: 9 November 2022

Shares qualify as 'funds' and therefore must be frozen if belonging to, owned, held or controlled by a listed person. Accordingly, this means that it is prohibited for the listed person to exercise any voting rights which could lead to any change in relation to these shares (e.g. in their volume, amount, location, ownership, possession, character, destination etc.). Either way, since they can be used to obtain funds, goods or services, voting rights as such can be considered an intangible economic resource. This means they should be frozen, i.e. prevented from being used to obtain funds, goods or services in any way. Therefore under no circumstance nor for any purpose may listed shareholders exercise directly or indirectly their voting rights in a company or fund. Voting rights must be fully frozen.

16. In the application of Article 2, should EU operators assess whether the specific funds or economic resources in question might be used to support the Russian military aggression against Ukraine?
Last update: 10 November 2022

No. The link between each listed person and the Russian military aggression was already determined by the Council at the time of the listing, as indicated in the respective statement of reasons in Annex I. The measures in Article 2 concern the entirety of the person's assets within EU jurisdiction, and all funds or economic resources to be made available to that person. Therefore, when conducting due diligence, what EU operators must assess is whether the assets in question belong to, or are owned, held or controlled by the listed person, and whether any funds or economic resources would be made available, directly or indirectly, to that person.

17. If an EU citizen is a board member in a listed Russian/Belarusian company and at the same time a board member in an EU company, should that person resign from one such post? Can a person be considered of good repute/integrity if he/she is a board member in a listed company?
Last update: 29 April 2022

EU sanctions are targeted, meaning that they apply only to those persons and entities that are subject to a specific restriction (e.g. asset freeze, financing ban etc.). Therefore, sanctions on listed entities do not automatically extend to their board members. However, board members may be themselves listed.

The notions of good repute/integrity are indeterminate legal concepts which are not defined in EU sanctions law.

Elsewhere in EU law, the notion of good repute has been interpreted by the Court of Justice of the EU (*case T-27/19, Pilatus v European Central Bank, point 73*), in the context of Article 23(1) of Directive 2013/36 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms. According to the Court, in the absence of an exhaustive definition of that concept or a list of conduct which may fall within the scope of that concept, the competent authorities are required to examine on a case-by-case basis whether the criterion of good repute is met by a shareholder seeking to acquire a qualifying holding in a credit institution. This requires taking into account the relevant facts (among which the fact that the person in question sits on the board of a sanctioned entity is relevant), the reasons underlying the criterion and the objectives which that criterion is intended to secure. The principle of legal certainty does not, therefore, preclude those authorities from enjoying discretion in the application of the criteria in question.

18. Should the employment contract of listed persons employed in whatever function by an EU financial firm be terminated?
Last update: 26 August 2022

Article 2(2) of Council Regulation (EU) No 269/2014 prohibits EU operators from making funds or economic resources available, directly or indirectly, to persons listed in Annex I to said Regulation. In principle, a salary payment would fall in the category of 'making funds or economic resources available'. Nonetheless, Article 7(2)(b) of Council Regulation (EU) No 269/2014 sets out an exception from Article 2(2) and allows payments to frozen accounts of a listed person if they are necessary for fulfilling obligations stemming from a prior contract. The listed person may therefore remain in his/her employment. However, his/her salary would need to be paid on a frozen account.

19. Should an EU bank freeze funds that are transferred via a listed bank, when both the sender of the funds and the receiver of the funds are non-listed persons?
Last update: 29 April 2022

In principle, all assets of a listed entity must be frozen. That includes funds coming from it and funds going to it. See in this regard the Commission opinion of 4 July 2019 which states, in a similar scenario, that funds of a non-listed person that are deposited in or even just transferred to a listed bank can be considered to be "held", in the meaning of Article 2 of Council Regulation (EU) No 269/2014, albeit temporarily, by the listed bank in question. Article 2 on the asset freeze does not require a minimum duration for the possession of the funds by the listed entity.

This means transfers from a listed bank should not be rejected nor should the funds be returned to the sender; instead, the funds should remain blocked in the EU bank. It will be possible to request to the relevant national competent authority the release of those funds, for instance under the derogation envisaged in Article 6 of Council Regulation (EU) No 269/2014 concerning a

payment by a listed person under a contract concluded before the date on which that person was listed.

20. Is it allowed to pay dividends to persons listed in Council Regulation (EU) No 269/2014 or to persons targeted by the financing restrictions in Council Regulation (EU) No 833/2014?
Last update: 29 April 2022

Dividends may be paid to the frozen accounts of persons listed in Annex I to Council Regulation (EU) No 269/2014, as per the derogation laid down in Article 7(2)(b). In that case, the dividends must also be immediately frozen.

Separately, note that dividends may still be paid to legal persons and entities subject to a financing ban pursuant to Article 5 of Council Regulation (EU) No 833/2014 (e.g. credit institutions, Russian state-owned enterprises).

21. 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: 29 April 2022

In the situation where 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, forbidding such payments would result in the absence of transfer of funds owed by the designated entity to the non-designated entity. This 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.

22. In case of a trigger event, e.g. as a consequence of either party not meeting a margining requirement, many derivative contracts give the other party to the contract the right to foreclose the contract at replacement value. Is such foreclosure permitted?
Last update: 29 April 2022

Council Regulation (EU) No 269/2014 foresees the possibility to derogate from Article 2. The foreclosure can be carried out if the conditions specified in Articles 6, 6b or 7 are fulfilled. If that is not the case, no foreclosure should be carried out.

23. Do ships (vessels) fall under the asset freeze?
Last update: 29 April 2022

Ships fall under the asset freeze, which encompasses all assets owned or controlled by a listed person. This also means that no services, including maritime services, can be provided to ships owned by listed persons.

24. Do the restrictive measures in Council Regulation (EU) No 269/2014 apply to intellectual property rights (patent applications, patents and related procedures) in the European Union?
Last update: 29 April 2022

EU sanctions can indeed apply to intellectual property rights (IPRs). The EU has designated (listed) a number of individuals and legal persons as subject to sanctions. All funds and economic resources, directly or indirectly belonging to, held or controlled by the listed persons must be frozen.

In practice, any EU person, public institution and person doing business in the EU must prevent any transfer of, alteration of, access to, use of or other dealings with those frozen funds or resources. In particular, the freezing of a listed person's economic resources means that any asset of the listed person, whether tangible or intangible, cannot be used by anyone to obtain other funds or assets. Since IPRs can qualify as 'economic resources', they are also subject to this restriction. This means that public institutions (e.g. a trademark register) must not enable the use of IPRs of a listed person, or of a person owned or controlled by a listed person (e.g. no property transfer should be registered).

EU sanctions also prohibit making further funds or economic resources available to listed persons or to entities owned/controlled by them. This means that no further transactions with those persons are possible (e.g. license fees for an IPR paid by an EU person to a person under sanctions).

For more information on the treatment of intellectual property rights, please consult the dedicated FAQs.

25. Does Council Regulation (EU) No 269/2014 allow secondary trading of securities issued by an entity listed in Annex I?
Last update: 29 April 2022

Supposing the entity is not subject to securities transactions restrictions under Article 5 of Council Regulation (EU) No 833/2014, 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 Council Regulation (EU) No 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.

26. If the assets of a person listed under Council Regulation (EU) No 269/2014 were transferred to an EU operator before that person's listing, can the operator be held accountable for having accepted them?
Last update: 19 May 2022

If a certain structure was created in order to assist a person to evade the effects of its possible future listing, then current, ongoing participation in that structure can amount to circumvention of the restrictive measures, if done knowingly and intentionally. Circumvention is prohibited under Article 9 of Council Regulation (EU) No 269/2014. Article 9 can be breached even if the freezing of assets is not discontinued and no assets reach or benefit the now-listed person; mere participation in a structure created for that purpose can be considered as a breach. In what regards the cumulative requirements of knowledge and intent, see also the jurisprudence in Case C-72/11, Afrasiabi and Others, in particular that these requirements are met where the operator "deliberately seeks that object or effect or is at least aware that its participation may have that object or that effect and accepts that possibility".

27. Should a vessel (yacht), which is already in an EU port, be denied any services, including mooring on the quay, supply of electricity and water, acceptance of waste - a result of shipping activity?
Last update: 23 May 2022

EU operators are prohibited from making funds or economic resources available, directly or indirectly, to listed persons. Labour and services can be considered as economic resources if they enable the listed person to obtain funds, goods or services. It is for the operator to determine whether the service(s) in question would result in that outcome. In such a case, the service(s) would be prohibited. For more details, see the Commission opinion of 19 June 2020.

28. If the owner or user of a vessel (yacht) is a designated person or an entity, should the national competent authorities take actions if the vessel is located in the territorial sea of a Member State, without violating the right to peaceful passage?
Last update: 23 May 2022

According to Article 2 of the United Nations Convention on the Law of the Sea, the sovereignty of a State extends also to the territorial sea. Therefore, if the relevant designated person or entity is prohibited from entering to the Union then, at their discretion and taking into account the

circumstances, including the freedom of navigation into account, a Member State could take relevant actions also in the geographical scope of its territorial waters.

29. Should the national authorities collect the fees due by vessel's owners?
Last update: 23 May 2022

Yes.

30. What does the reinforced reporting obligation in Article 8 entail?
Last update: 26 July 2022

Previously, Article 8 required all persons under EU jurisdiction to supply to Member States and to the Commission any information "which would facilitate compliance with the Regulation". This included, in particular, information on assets already treated as frozen.

The now-reinforced Article 8 explicitly requires persons under EU jurisdiction to also report any information in their possession about assets not yet treated as frozen. This could include, for instance, assets concealed by the listed persons or assets not adequately handled somewhere in the Union. In addition, Article 8 now applies "notwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy". In other words, it would trump relevant agreements entered into by the EU operators in question, who would be obliged to report all relevant data including names, individual assets and dates of transfers.

It should be noted however that EU sanctions legislation guarantees in particular the right to an effective remedy and the right to defence, as laid down in the Charter. Therefore, in principle, while the reinforced reporting obligation would cover most services and activities linked to listed persons, it should not cover information received as part of legal representation in court proceedings.

EU sanctions law is to be applied in line with all other rights and freedoms in the Charter, including the right to protection of personal data. Article 8(3) already indicates that any information provided or received in accordance with that article must be used "only for the purposes for which it was provided or received".

31. What does the new reporting obligation in Article 9 entail?
Last update: 26 July 2022

For the first time, listed persons and entities are obliged to disclose to Member States' competent authorities funds or economic resources belonging to, owned, held or controlled by them which are located within EU jurisdiction.

This new obligation comes in response to the increasing complexity of sanctions evasion schemes, and it will help ensure that those assets are traced more effectively. Non-compliance with this obligation (i.e. failure to report on time) would be treated as a breach of EU sanctions law, with the consequences that follow under each Member State's national legislation, including criminal penalties.

32. Does a listing affect the status of a beneficial owner of a legal person?
Last update: 30 August 2022

EU sanctions are temporary measures that do not entail expropriation or modification of the ownership, and the status of beneficial owner does not cease to exist in the moment the beneficial owner is listed. As defined in the Council Regulation (EU) No 269/2014:

- The 'freezing of funds' means preventing any move, transfer, alteration, use of, access to, or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or any other change that would enable the funds to be used.
- The definition of 'funds' includes publicly- and privately-traded securities and debt instruments, including stocks and shares.

It follows that the listing of an individual, as such, should not result in any change to the information held by national beneficial ownership registers.

33. What actions should the national competent authorities undertake in case of a declared entry into an EU port of a vessel (yacht), whose owner or user is a designated person or an entity who are subject to freezing of economic resources, taking into account the definition of "freezing of economic resources" as defined under Art. 1(e) of Council Regulation (EU) 269/2014?
Last update: 23 May 2022

Vessels fall under the asset freeze, which encompasses all assets owned or controlled by a listed person or entity. Therefore, the vessel should be seized, and the seizure reported in the FSOR database.

34. Should a vessel owned or operated by a designated person or entity be admitted to port, detained or refused entry in an EU port?
Last update: 10 October 2022

It depends whether the vessel is registered under the flag of Russia. Pursuant to Article 3ea(1) of Council Regulation (EU) No 833/2014, as of 9 April 2022, it is prohibited to provide access to ports in the territory of the Union to any vessel registered under the flag of Russia, unless the vessel is in need of assistance and seeking a place of refuge, or in case of an emergency port call for reasons of maritime safety, or for saving life at sea (Article 3ea(4)). Derogations to this prohibition may apply, the conditions of which are laid down in Article 3ea(5) of Council Regulation (EU) No 833/2014.

If the vessel is not registered under the flag of Russia or allowed to enter the port under the specific conditions laid down in Articles 3ea(4) and 3ea(5), then it should be admitted to port and seized if its owner is a designated person or entity under Council Regulation (EU) 269/2014.

New reporting obligations introduced by Council Regulation (EU) 2023/426 of 25 February 2023 amending Council Regulation (EU) 269/2014 ('10th Russia sanctions package')

35. Reporting on information held on assets' changed features over the two weeks prior listing: applicability to all existing designations.

Last update: 26 April 2023

Applying from 26 April 2023, article 8 of Reg. 269/2014 requires operators to report to their national competent authorities (NCAs) on *"information held on funds and economic resources within Union territory belonging to, owned, held or controlled by natural or legal persons, entities or bodies listed in Annex I and which have been subject to any move, transfer, alteration, use of, access to, or dealing referred to in Article 1(e) or 1(f) in the two weeks preceding the listing of those natural or legal persons, entities or bodies in Annex I".*

This reporting requirement applies to designations of natural and legal persons, entities and bodies in Annex I to Regulation 269/2014 and therefore to all existing designations.

36. Reporting on information held on changes to assets which took place over the two weeks prior to the designation for already existing designations on 26 April 2023.

Last update: 26 April 2023

The reporting obligation concerns information held on any move, transfer, alteration, use of, access to, or dealing with assets of designated persons in the two weeks preceding their designation. With information held, the assumption is that the information is already held, typically in existing records, which does not imply additional investigations other than checking existing records.
Two scenarios are possible:

Operators still subject to asset freeze obligations: in this scenario, further to the designation, assets were actually frozen by the operator. These operators have to look back two weeks before designation in their records. For instance, a bank still in charge of the relevant frozen bank account and that processed funds transfers from the bank account of the person in the two weeks preceding his/her designation should report these funds transfers within two weeks after 26 April 2023 to the competent National Competent Authority (NCA).

Operators that carried out or were involved in transactions concerning the asset of a designated person in the two weeks before the designation but have since then no more interaction with the assets (ie unlike the scenario above, they are not in charge of any frozen assets): there may be instances where these operators have been involved in "any move, transfer, alteration, use of, access to, or dealing", for instance a notary having registered the sale of an estate or a trust services provider or lawyer having contributed to placing the assets of a to-be-designated person or entity under a new legal arrangement. Relevant records should be checked against the designated persons or entities to assess a) whether interaction took place with their

assets and b) if such interaction led to any move, transfer, alteration, use of, access to, or dealing with the assets in the two weeks preceding the designation.

When they hold information relevant to article 8(1)a, second indent, operators may approach their NCAs beforehand on the relevant specifics and presentation of the information to be reported. When advising on the level of detail/degree of granularity of the information presented by operators, NCAs may take into account the reporting capacities of the operator (resources, standard recordkeeping and auditing practices…).

37. Reporting on information held on changes to assets over the two weeks prior designation for new designations (designations post 26 April 2023).

Last update: 26 April 2023

Operators freezing assets of natural and legal persons further to their designation after 26 April 2023 should report any information they have on changes that were made to those assets within the two weeks preceding the designation. For instance, an operator reporting on 16 May on assets frozen for a person designated on 15 May should look back until 1 May to detect possible changes and report them where relevant together with its 16 May report.

This specific reporting could be implemented by way of an addendum to the existing reporting form to the NCAs, with possible information held on asset changes reported on such addendum.

38. Specifics of the information to be provided on assets frozen

Last update: 26 April 2023

The table below recaps the relevant provisions of Article 8(1a) with related guidance:

Provisions in Article 8(1a)	**Guidance**
a) information identifying the natural or legal persons, entities or bodies owning, holding or controlling the frozen funds and economic resources, including their name, address and VAT registration or tax identification number;	VAT registration or tax identification number: if known. If unknown, this should be explicitly stated with the assets freeze reporting.
(b) the amount or market value of such funds or economic resources at the date of reporting and at the date of freezing;	Market value: if known/calculable. If impossible to provide, this should be explicitly stated with the assets freeze reporting. Date of reporting: reporting should take place within two weeks after

	actual freeze. If, during this period, assets are subject to valuation changes, the reporting should provide the value at the date of reporting and at the date of freezing *NB: CSDs will report every three months after the initial freezing. Date of reporting will therefore be +3 months, +6 months… after date of freezing (see also FAQ 6 below).*
(c) the types of funds, broken down according to the categories set out in points (i) to (vii) of Article 1(g) as well as crypto-assets and other relevant categories, and an additional category corresponding to economic resources within the meaning of Article 1(d). For each of those categories and where available, the quantity, location and other relevant features of the funds or economic resources.	The description breakdown can be fulfilled by a narrative description of the frozen asset enabling the NCAs without any extra investigation to relate the asset to the categories referred to in point c). Economic resources should be described too.

39. Where/ to whom to report on frozen assets?

Last update: 26 April 2023

Under Article 8(1) of Council Regulation (EU) No 269/2014, reporting operators have to report *"to the competent authority of the Member State where they are resident or located"*, as listed in Annex II to that Regulation. From an enforcement perspective, it matters that reporting lines point to the NCA that supervises and can enforce the reporting obligations. For instance, a branch of a financial institution headquartered in Member State A which is located in Member State B is supervised for its financial sanctions compliance by authorities in Member State B. It should therefore address its reports on frozen assets to the NCA in Member State B, unless it opts for group level reporting.

Reporting on group level (e.g. a financial institution headquartered in Member State A reporting on group level to the NCA in Member State A for its operations in Member States A, B, C…):

reporting on group level could be possible on condition that NCAs in other Member States than the Member State where the report is addressed are informed beforehand and receive a copy of the report indicating the respective national breakdown.

40. Specific cases of CSDs, specific frozen assets reporting and common reporting template

Last update: 26 April 2023

Central securities depositories within the meaning of Regulation (EU) No 909/2014 of the European Parliament and of the Council (CSDs) are under specific frozen assets reporting requirements:

- they must provide the information referred to in paragraphs 1 and 1a of Article 8 of Council Regulation (EU) No 269/2014;
- they must also report information on extraordinary and unforeseen loss and damage concerning the relevant funds and economic resources;
- the information above must be reported within two weeks of acquiring it to the competent authority of the Member State where CSDs are located and every three months thereafter, and transmitted simultaneously to the Commission.

Information on extraordinary and unforeseen loss and damage relate to events such as a cyber-attack affecting the frozen assets, fraud, circumvention of the freeze resulting in assets being moved without knowledge of the CSD.

A common template for reporting frozen assets by CSDs is available here.

41. Can a non-sanctioned company request an authorisation to use the derogations on trade in fertilisers if it does not consider itself to be owned or controlled by a sanctioned person, but its counterparts do? Would that amount to an acknowledgement of ownership and/or control by the sanctioned person over the company?

Last update: 10 May 2023

Provided that a company fulfils the criteria laid out in the Regulation to request an authorisation, its/its directors' subjective position regarding the ownership and/or control of the sanctioned individual over the company does not prevent it from applying for an authorisation. The Regulation does not draw any conclusions from such an application as to whether the company is indeed owned and/or controlled by the sanctioned individual.

Firewall

42. What is a firewall?

Last update: 5 September 2024

Over the past year, several instances have been brought to the Commission's attention, where there was a need to remove the control by designated persons over non-designated EU entities and their assets, several of which concerned the agrifood sector. This was done to mitigate excessively negative effects of EU asset freezing measures, which extend to all assets owned, held or controlled by those non-designated entities.

To this end, the Commission services consider that specific 'safeguards' (also known as a 'firewall') may be implemented to prevent the designated person from exercising control over the non-designated EU entity and its assets, allowing the EU entity's business operations to continue, while preventing that funds and economic resources are made available to the designated person.

This means that the EU entity operating under a firewall can have access to funds and economic resources. The firewall ensures that no such funds or economic resources are made directly or indirectly available to the listed person, entity or body. Accordingly, the EU-based company can continue functioning and EU employees can continue working, while ensuring that the listed person is deprived of any benefit.

A 'firewall' can be established for example by law, by means of a judicial or administrative decision etc., and authorised by the NCA on the basis of the derogation provided for in Article 5 of the Regulation.

The Commission published guidance which sets some criteria that a firewall should meet. The guidance can be found here.

43. Why was a derogation needed in connection to a firewall?

Last update: 24 July 2023

The asset freeze and the prohibition on making funds or economic resources available (Article 2 of Council Regulation (EU) No 269/2014) prevent listed persons from receiving the services that may be necessary for the setting up of the firewall (which are considered as economic resources), as well as from paying for those services (because the funds of the listed person are frozen).

For these reasons, a derogation was needed in order to allow the provision of and the payment for such services, on a strict necessity base, for the purpose of setting up a firewall.

44. When does the firewall derogation apply? What are the consequences if a derogation is granted but the firewall does not effectively decouple the listed person and the EU-based company?
Last update: 24 July 2023

The derogation from Article 2 of Council Regulation (EU) No 269/2014 allows the national competent authorities to authorise the release of certain frozen funds or economic resources belonging to, owned, held or controlled by a listed natural or legal person, entity or body, or the provision of services to such a natural or legal person, entity or body, under such conditions as the relevant national authorities deem appropriate.

The derogation only applies if the relevant conditions are met, and notably provided that: (i) the authorisation is strictly necessary for the setting-up, certification or evaluation of a firewall; (ii) the firewall effectively removes the control by the listed person, entity or body over the assets of a non-listed EU person, which is owned or controlled by the former and (iii) ensures that no further funds or economic resources accrue for the benefit of the listed person, entity or body (see also Question 33 of the FAQ on the provision of services regarding the corresponding derogation from the services prohibitions).

If a firewall is not effectively established, the presumption is not rebutted and the NCA must keep the entity's assets frozen. In addition, in the event of non-compliance with the firewall commitments, the entity and the relevant individuals must be held accountable according to Member State penalties applicable to infringements of the provisions of the relevant EU Regulation.

C. FINANCE AND BANKING

1. TRADING

RELATED PROVISION: ARTICLE 5; ARTICLE 5a OF COUNCIL REGULATION 833/2014

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 883/2014.

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

Depositary 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 whistle blower tool.

2. FINANCING AND REFINANCING RESTRICTIONS

RELATED PROVISION: ARTICLE 5 OF COUNCIL REGULATION 833/2014

1. **Can a bond issued by a listed entity and in possession of a non-listed entity be sold to another non-listed entity?**
   Last update: 20 April 2022

Assuming that the word "listed" refers here to the entities targeted by refinancing prohibitions and not to entities subject to an asset freeze, Article 5 of Council Regulation (EU) No 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 are prohibited from directly or indirectly purchasing, selling, providing investment services for or assistance in the issuance of, or otherwise dealing with them.

2. **Might payment terms for goods and services whose trade is not prohibited under Council Regulation (EU) No 833/2014 be considered as new loans or credit for the purpose of Article 5 of said Regulation?**
   Last update: 20 April 2022

No, payment terms or delayed payment for goods or services are not in general considered as loans or credit for the purpose of Article 5 of Council Regulation (EU) No 833/2014. However, the provision of payment terms/delayed payment may not be used to circumvent the prohibition to provide new loans or credit under Article 5. Payment terms which are not in line with normal business practice or which have been substantially extended may constitute circumvention.

3. **Are branches or Russian entities subject to (re)financing restrictions under Articles 5(1) to 5(4) of Council Regulation (EU) No 833/2014 subject to these restrictions themselves when they are located in the EU?**
   Last update: 20 April 2022

The branch of a Russian entity is subject to the (re)financing restrictions under Articles 5(1) to 5(4) if it acts at the direction or on behalf of its parent company, which is itself targeted by these Articles.

4. **How should one interpret the scope of the expression "a legal person, entity or body acting on behalf or at the direction of..." in the context of their connection with entities subject to sanctions under Article 5 of Council Regulation (EU) No 833/2014? Should this term be interpreted only in the context of a share in the shareholding of listed companies belonging to the entities subject to sanctions and if so, in which scope (direct or indirect) and on what level (more than 50% or less)? Should other circumstances be taken into account?**
   Last update: 20 April 2022

The entities listed under Article 5 of Council Regulation (EU) No 833/2014 can be found in the corresponding Annexes. On the determination of whether an entity is acting on behalf of or at the direction of one of these entities, we recommend consulting the Commission opinion of 17 October 2019 on this matter.

3. INVESTMENT FUNDS

RELATED PROVISION: ARTICLE 5; ARTILE 5a; ARTICLE 5f OF COUNCIL REGULATION 833/2014

1. **Where a management company as defined in point (b) of Article 2(1) of Directive 2009/65/EC or an alternative investment fund manager in the meaning of point (b) of Article 4(1) of Directive 2011/61/EU, carries out business on behalf of its managed fund(s), are the restrictive measures set out in Council Regulation (EU) 833/2014 applicable to those funds or the unit-/shareholders of those funds? Specifically, where the management company or the alternative investment fund manager purchases, sells, provides investment services for or assistance in the issuance of, or otherwise deals with transferable securities and money-market instruments, on behalf of its managed funds, or sells transferable securities denominated in the currency of a Member State issued after 12 April 2022, or denominated in any other currency issued after 6 August 2023 or units in collective investment undertakings providing exposure to such securities, do the prohibitions in Articles 5(1)–5(4), Article 5a(1) and Article 5f(1) of Council Regulation (EU) 833/2014 apply to the funds or the unit-/shareholders of those funds?**
   Last update: 30 June 2023

The prohibitions laid down in Articles 5(1)-5(4) and Article 5a(1) apply to any entity or person that are transactional parties to, or arrange or otherwise facilitate, the sale, purchase or issuance of securities of entities sanctioned under these Articles.

The prohibition in Article 5f(1) applies to any entity or person selling transferable securities, or units in collective investment undertakings providing exposure to such securities, to Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, save for nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.

Collective investment undertakings managed by management companies as defined in point (b) of Article 2(1) of Directive 2009/65/EC or alternative investment fund managers in the meaning of point (b) of Article 4(1) of Directive 2011/61/EU are covered by the prohibition laid down in Article 5f of Council Regulation (EU) 833/2014 if their activities fall within the scope of this prohibition.

Management companies, alternative investment fund managers or investment firms are covered by the prohibitions in Articles 5(1)-5(4) and Article 5a(1) if their activities fall within the scope of these prohibitions.

2. **If the manager of an investment fund has an indirect investment which falls in scope of the sanctions, to what extent may this manager purchase and/or sell in this investment fund?**
   Last update: 14 April 2022

The prohibition to "directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities or money market instruments" of entities sanctioned in Articles 5(1) to 5(4) of Council Regulation (EU) 833/2014 applies to all market participants, including asset managers, fund administrators, depositaries, etc. The failure or insufficient measures to ensure compliance with the prohibition of indirect investment would amount to breaching this prohibition.

3. **Are the prohibitions to provide brokering services or financing for the provision of brokering services, e.g. in Articles 2(2), 2a(2), 3b(2) and 3c(4) of Council Regulation (EU) No 833/2014, and the prohibitions to provide brokering services in point (a) of Article 4(2) and Article 5(1) applicable to management companies, alternative investment fund managers or investment firms?**
   Last update: 14 April 2022

Pursuant to its Article 13, Council Regulation (EU) 833/2014 applies (i) within the territory of the Union; (ii) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State; (iii) to any legal person, entity or body in respect of any business done in whole or in part within the Union. For example, if the manager of an alternative investment fund is an EU citizen working in a fund incorporated under the law of a third country, (s)he is subject to the restrictive measures enshrined in the Regulation.

4. **Do the prohibitions in paragraphs Articles 5(1)–5(4) and Article 5a(1) of Council Regulation (EU) No 833/2014, cover transferable securities and money-market instruments traded on the secondary market? Under what conditions? Could, for instance, a management company or an alternative investment manager on behalf of a fund it manages, purchase or sell such instruments on the secondary market, or provide investment services for such instruments, if the transaction or investment service neither actually nor potentially results in additional capital being made available to a targeted entity?**
   Last update: 14 April 2022

The respective prohibitions apply irrespective of whether the instruments are traded on secondary or primary markets. Secondary trading between EU counterparties of instruments of entities sanctioned under Articles 5(1)–5(4) and Article 5a(1) of Council Regulation (EU) No 833/2014 shall be suspended. The only conditions to take into account concern the date of issuance of the securities. These conditions are clearly set out in Articles 5(1)–5(4) and Article

5a(1).

5. **Are EU regulated UCITS (Undertakings for Collective Investment in Transferable Securities) issued by Russian companies subject to the EU Sanctions regime? If yes, should one block UCITS that were issued by targeted Russian entities?**
   Last update: 14 April 2022

The prohibitions laid down in Articles 5(1) to 5(4) of Council Regulation (EU) 833/2014 do not cover Undertakings for Collective Investments in Transferable Securities (UCITS) issued by entities sanctioned under these Articles.

However, Council Regulation (EU) 269/2014 provides for individual financial restrictive measures targeted at a number of natural or legal persons, entities or bodies. Specifically, Article 2(1) of Council Regulation (EU) 269/2014 provides that all funds and economic resources belonging to, owned, held or controlled by any natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I to said Regulation, shall be frozen. In addition, Article 2(2) of Council Regulation (EU) 269/2014 provides that no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies, or natural or legal persons, entities or bodies associated with them, as listed in Annex I of said Regulation.

The relationships that natural or legal persons, entities or bodies targeted by Article 2 of Council Regulation (EU) 269/2014 may have with UCITS shall then be duly examined. Specifically, if investors in the fund or Ultimate Beneficial Owners would turn out to be persons, entities or bodies listed in Annex I, their units or shares should be frozen and shall not give rise to any remuneration towards them. Likewise, if for instance the depository, UCITS manager, portfolio manager, advisor or delegate would be a person or entity listed in Annex I of Council Regulation (EU) 269/2014, the UCITS should be blocked, as its existence would result in the provision of funds or economic resources to persons or entities listed in Annex I, for instance via management fees.

6. **Article 5f of Council Regulation (EU) 833/2014 prohibits the sale of "transferable securities denominated in any official currency of a Member State issued after 12 April 2022, or denominated in any other currency issued after 6 August 2023 or units in collective investment undertakings providing exposure to such securities, to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia". Are units in collective investment undertakings transferable securities within the meaning of this Article?**
   Last update: 30 June 2023

The notion of "collective investment undertakings" within the meaning of Article 5f of Council Regulation (EU) 833/2014 appear to be distinct from and not covered by the term "transferable

securities" as defined in Article 1(f) of Council Regulation (EU) 833/2014.

7. Depending on their legal nature (common funds, unit trusts, investment companies), collective investment undertakings (CIU) can alternatively issue units or shares. Could you confirm that the sale of both units and shares of a CIU providing exposure to transferable securities denominated in any official currency of a Member State issued after 12 April 2022 is prohibited?
Last update: 14 April 2022

Investment-fund related Directives or Regulation usually refer to units or shares indistinctly. Directive 2009/65/EC sets out, in its Article 1(3)(b), that 'units' of UCITS shall also include shares of UCITS. Given the inter-changeable use of 'units' and 'shares' of CIUs, both units and shares of collective investment undertakings are within the scope of Article 5f of Council Regulation (EU) 833/2014.

8. Does Council Regulation (EU) 833/2014 prohibit the purchase of transferable securities denominated in the currency of a Member State by third-country collective investment undertakings (CIU) if their units are marketed to Russian national or entities? Are EU operators prohibited from selling transferable securities denominated in the currency of a Member State to third-country CIUs?
Last update: 14 April 2022

If it can be established or if there are reasonable grounds to suspect that units of these third-country CIUs are indeed marketed to Russian national or entities, then the prohibition to sell transferable securities denominated in any official currency of a Member State can extend to these third country CIUs when the seller is an EU person or entity.

However, EU sanctions have no extraterritorial effect. Therefore, the prohibition cannot as such be applied to third-country CIUs as purchasers.

9. The prohibition in Article 5f of Council Regulation (EU) 833/2014 refers to any "legal person, entity or body established in Russia". Does the EU branch of a legal person, entity or body established in Russia fall within the scope of the sale prohibition? What about the EU subsidiaries of a Russian entity?
Last update: 14 April 2022

The EU branch of a legal person, entity or body established in Russia falls within the scope of the prohibition.

As it is established in the EU, an EU subsidiary of an entity established in Russia does not fall in the scope of the prohibition. However, the subsidiary cannot be used to circumvent the prohibition and itself sell transferable securities denominated in any official currency of a

Member State, or units in collective investment undertakings providing exposure to such securities, to its parent entity established in Russia.

10. Do units of collective investment undertakings (CIUs) denominated in a non-EU currency and providing exposures to transferable securities denominated in an official currency of a Member State fall within the scope of the prohibition in Article 5f of Council Regulation (EU) 833/2014?

Last update: 30 June 2023

If the units provide exposure to transferable securities denominated in the currency of a Member State issued after 12 April, then their sale is prohibited, irrespective of their own currency denomination. As of 6 August 2023, if the units provide exposure to transferable securities denominated in any currency, then their sale is prohibited.

4. CENTRAL BANK OF RUSSIA

RELATED PROVISION: ARTICLE 5a OF COUNCIL REGULATION 833/2014

1. **Are the assets of the Central Bank of Russia frozen?**
   Last update: 20 April 2022

Pursuant to Article 5a(4) of Council Regulation (EU) 833/2014, all transactions with the Central Bank of Russia are prohibited to the extent that they are related to "the management of reserves as well as of assets" of the Central Bank. A similar prohibition applies to the Belarussian Central Bank.

2. **Does Article 5a(4) of Council Regulation (EU) No 833/2014 prohibiting transactions related to the management of reserves as well as of assets of the Central Bank of Russia also cover the conversion and foreign exchange transactions (EUR/USD to RUB) carried out by subsidiaries of EU companies in Russia through Russian commercial banks?**
   Last update: 20 April 2022

EU sanctions do not apply extra-territorially. Therefore, Russian subsidiaries of EU parent companies are not obliged to comply with the sanctions. However, it is prohibited for EU parent companies to use their Russian subsidiaries to circumvent the obligations that apply to the EU parent.

3. **Can you provide examples of which entities might be 'acting on behalf of or at the direction of the Central Bank of Russia?**
   Last update: 20 April 2022

This is a case-by-case assessment. The Central Bank of Russia may try to conduct operations via a variety of legal persons, entities or bodies.

4. **What criteria should be used to assess whether an entity acts on "behalf of or at the direction of the Central Bank of Russia"? To what extent do the criteria specified in the Commission Opinion of 17 October 2019 on Article 5(1) of Council Regulation (EU) No 833/2014 still apply here, given that the Central Bank of Russia isn't a corporate entity?**
   Last update: 20 April 2022

This is a case-by-case assessment. Many of the examples of criteria provided in the quoted opinion remain relevant indeed: "*the precise ownership/control structure […] ; the nature and purpose of the transaction, coupled with the stated business duties of the entity that is owned or controlled; previous instances of acting on behalf or at the direction of the targeted entity;*

disclosure made by third parties and/or factual evidence indicating that directions were given by the targeted entity".

5. **Do payments of statutory taxes fall under the definition of "*…transactions related to the management of reserves as well as assets*" in Article 5a(4) of Council Regulation 833/2014? In other terms, does Article 5a of Council Regulation 833/2014 prevent EU-companies operating in Russia from paying usual statutory taxes in Russia directly to the Russian Central Bank?**
   Last update: 20 April 2022

Paying lawfully due taxes in Russia does not amount to enabling the Russian Central Bank to manage its reserves or assets. Article 5a does therefore not apply to the payment of taxes.

New reporting obligations introduced by Council Regulation (EU) 2023/427 of 25 February 2023 amending Council Regulation (EU) 833/2014 ('10th Russia sanctions package')

'Immobilised'[6] assets reporting under article 5a(4) of Regulation n°833/2014

6. **A common reporting template, reporting timelines**
   Last update: 26 April 2023

A common template for reporting immobilised assets under article 5a(4) of Regulation n°833/2014 has been developed and is available here from the website of the European Commission, DG FISMA.

It can be used by operators that have immobilised assets to report to their NCAs and to the Commission. Operators that have not immobilised any assets are not expected to submit nil reports.

The first reporting shall be provided by relevant operators no later than two weeks after 26 April 2023 to the competent authority of the Member State where they are resident or located, and simultaneously to the Commission. It shall be updated every three months.

The reporting requirement applying as from 27 April 2023, the value date for the reported assets should be that date (27 April). It is necessary to align subsequent reporting for the three monthly updates with quarterly reporting (e.g the first quarterly update would be based on Q2 value date, i.e. 30 June 2023).

7. **Where/ to whom to report on immobilised assets?**
   Last update: 26 April 2023

Under art. 5a(4a) of Council Regulation (EU) No. 833/2014, reporting operators have to report "*to the competent authority of the Member State where they are resident or located, and*

[6] This term will be used in this FAQ to refer to the prohibition of transactions in Article 5a(4) of Regulation 833/2014.

simultaneously to the Commission". Contact details of competent NCAs and of the Commission are provided for in Annex I of Regulation 833/2014.

Regarding which national competent authority to report to and from an enforcement perspective, it matters that reporting lines point to the competent national authority that supervise and can enforce the reporting obligations. From an enforcement perspective, it matters that reporting lines point to the NCA that supervise and can enforce the reporting obligations. For instance, a branch of a financial institution headquartered in Member State A which is located in Member State B is supervised for its financial sanctions compliance by authorities in Member State B. It should therefore address its reports on frozen assets to the NCA in Member State B, unless it opts for group level reporting.

Reporting on group level (e.g a financial institution headquartered in Member State A reporting on group level to the NCA in Member State A for its operations in Member States A, B, C…): reporting on group level could be possible on condition that NCAs in other Member States than the Member State where report is addressed are informed beforehand and receive a copy of the report indicating the respective national breakdown. The common template for reporting immobilised assets has been developed and is available here from the website of the European Commission, DG FISMA.

8. **Should the securities issued by Russian entities and owned by EU persons be reported?**
   Last update: 6 July 2023

No. The reporting required under article 5a(4a) of Reg.833/2014 is on assets of the Russian Central Bank and of legal person, entity or body acting on its behalf or at its direction.

For instance, a bond issued by a Russian entity and owned by a client of a EU-based entity does not have to be reported by this entity. If such bond is frozen because its owner is designated under Regulation (EU) No 269/2014, the relevant reporting foreseen under Reg.269/2014 should apply.

9. **Should operators that have not immobilised any CBR assets submit nil reports?**
   Last update: 6 July 2023

No. Only operators that have actually immobilised CBR assets have to report them.

10. **Can the three monthly update be aligned with usual quarterly updates regarding the value date for the reported CBR assets?**
    Last update: 6 July 2023

Yes. In line with FAQ 6, it is advised to align the three-monthly update with standard quarterly updates. Similar to the first two week transmission period for the first report, subsequent updated reports should be transmitted within two weeks of the end of the quarter.

11. **Does the payment to fulfil the "obligation to pay voluntary transaction" (обязательство по осуществлению добровольного направления, so-called "exit tax") fall under the definition of "…transactions related to the management of reserves as well as assets" in Article 5a(4) of Council Regulation 833/2014?**
    Last update: 31 October 2023

The payment of the so-called 'exit tax' is imposed by the Russian Governmental Commission which in this respect is implementing a Presidential Decree (No. 618 of 2022). This is not part of the official tax legislation of Russia. This decree establishes the payment as a precondition for allowing EU companies to divest from Russia and does not amount to enabling the Russian Central Bank to manage its reserves or assets. Therefore, Article 5a does not apply to the payment of the so-called "exit-tax".

5. DEPOSITS

RELATED PROVISION: ARTICLE 5b; ARTICLE 5c; ARTICLE 5g OF COUNCIL REGULATION 833/2014

1. **How should an authorisation in accordance with Article 5c(1)(a)-(f) of Council Regulation 833/2014 take place?**
   Last update: 12 October 2022

Procedures for granting derogations are established at Member State level by national administrative law. The national competent authorities (NCA) to which the applicant should lodge its request for authorisation are indicated here. Member States are then free to distribute the work internally to assess the request as they sees fit. Member States legislation and procedures must not be in contradiction with the provisions set out in EU law. According to the case law of the Court of Justice of the European Union, NCAs must exercise their powers in a manner that upholds the rights provided for in Article 47 of the Charter of Fundamental Rights of the EU.

2. **Are there any formal requirements as to how the authorisation should be designed?**
   Last update: 12 October 2022

The process and design of the authorisation is to be decided upon by the national competent authority in line with national practice. For instance, it is up to the national competent authority to decide whether to provide a form for the application or not.

3. **Which information and documentation should be obtained by the national competent authority for assessments made under Article 5c(1) of Council Regulation 833/2014? Whom should the national competent authority obtain the information and documentation from: natural or legal persons?**
   Last update: 12 October 2022

It is for the national competent authority to decide on what evidence is required. The national competent authority will need to ascertain that the deposits are indeed required for the purposes providing the grounds for an exemption under Article 5c. Which documents are needed for this needs to be decided on a case by case basis. In particular, the national competent authority will assess whether the information provided by credit institution applying for the authorisation is sufficient, or whether additional documentation from the natural and legal persons is needed. In particular, the applicant should provide solid evidence to demonstrate that the deposit will be used for the purposes required under the derogation (e.g. basic needs in case of Article 5c(1)(a)).

The national competent authority should assess if the deposit is proportionate with those purposes and may impose ex post reporting obligations.

4. **What may be considered "*necessary to satisfy the basic needs*" in accordance with Article 5c(1)(a), and "*necessary for official purposes*" in accordance with Article 5c(1)(e)? Which elements should be included in the assessment?**
   Last update: 12 October 2022

For basic needs, please refer to page 27 of the Best Practices for the implementation of Sanctions (payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges). For official purposes, the national competent authority should assess on a case-by-case basis if the deposit falls within the scope of the derogation. Regarding a diplomatic mission or consular post or international organisation, the derogation under Article 5c(1)(e) shall be interpreted as covering all deposits needed to finance the office purposes of such a mission. In general, money transfers by the Russian State to its embassy in one Member State would qualify for this derogation. Nevertheless, it remains up to the national competent authority in to ascertain in the authorisation application process the necessary nature for official purposes of a transfer to the embassy. The national competent authority should assess if the entity qualifies as 'international' organisation; that would be the case for instance when three or more countries[7] recognised by all EU Member States are members, shareholders or are part of the governance body of that organisation or the parent organisation. The national competent authority should not base its assessment on the 'size' of the organization, its role, tasks or activities. See also question 3 regarding the fact that the national competent authority may assess if the deposit is proportionate to the intended purposes and impose ex post reporting obligations.

5. **Does the reporting obligation under Article 5g(1)(b) of Council Regulation 833/2014 only take effect on 27 May 2022 or is it already in effect?**
   Last update: 3 May 2022

The information to be reported under Article 5g(1)(b) shall be provided as soon as possible. This means that credit institutions should take proper action to swiftly collect the information. The deadline of 27 May 2022 envisaged in Article 5g(1)(a) provides, by analogy, a reasonable timeframe for the transmission of the information to be provided under 5g(1)(b). Where credit institutions are not able to provide this information by the set deadline because the information is still being collected, they shall inform the respective competent authorities of the delay and its reasons, and agree on a reasonable deadline with the competent authorities.

[7] This can also be the successor countries of the original organisation's members.

6. **Art 5g of Council Regulation 833/2014refers to credit institutions. Is the reporting obligation also applicable to other institutions, e.g., payment institutions, financial institutions and/or electronic money institutes?**
   Last update: 3 May 2022

Article 5g imposes reporting obligations on credit institutions as defined in Article 1(h) and which hold deposits as defined in Article 1(k). In case of doubt, the institution should seek information from its NCA for an assessment on a case-by-case basis. In this respect, it must be recalled that it is prohibited to participate in activities that would circumvent the restrictions in Council Regulation 833/2014.

7. **For the purpose of complying with the obligation under Article 5g(1)(b) of Council Regulation 833/2014, how can a credit institution verify whether a deposit holder is a Russian national or natural person residing in Russia who has acquired the citizenship of a Member State or residence rights in a Member State through an investor citizenship scheme or an investor residence scheme?**
   Last update: 3 May 2022

Investor citizenship schemes and investor residence schemes are defined in Articles 1(l) and 1(m) of Council Regulation 833/2014. A credit institution should first assess the documents that have been submitted to it by the deposit holder. Should it need further assistance, the credit institution can contact its national competent authority.

8. **Are EU parent companies obliged to report deposits from Russian persons or entities for the entire group on a consolidated basis (including deposits at their non-EU subsidiaries)?**
   Last update: 3 May 2022

EU sanctions do not apply extra-territorially. Third-country subsidiaries of EU parent companies are incorporated under third-country law, not under the law of a Member State. They are therefore not expected to comply with Article 5g of Council Regulation 833/2014.

9. **Should the prohibition in Article 5b of Council Regulation 833/2014 also be complied with by branches of EU banks outside the EU?**
   Last update: 3 May 2022

EU sanctions must be complied with by all EU persons – both natural and legal – and therefore by all EU incorporated companies. Branches of EU companies outside the EU remain EU persons, and as such are bound by Council Regulation 833/2014, including Article 5b.

10. **Should the prohibition to accept deposits exceeding a total of EUR 100 000 from Russian nationals in Article 5b of Council Regulation 833/2014 apply to deposits made by Russian nationals residing in a third country (e.g. the US)?**
Last update: 12 October 2022

The prohibition in Article 5b applies to deposits made by Russian nationals wherever they reside, unless they have a temporary or permanent residence permit in a Member State, a country member of the European Economic Area or Switzerland, or the nationality of one of these States.

11. **Does the prohibition in Article 5b apply for all types of account (e.g. savings and current accounts)?**
Last update: 3 May 2022

The prohibition applies to all deposits as defined in Article 1(k), irrespective of the type of account they are being held in. The limit of EUR 100 000 should be understood as the sum of all accounts being held at a credit institution.

12. **What does the term "Russian national" mean in the context of Article 5b of Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine? Does it include all holders of the Russian nationality or Russian residents only? What about holders of dual EU-Russia citizenship?**
Last update: 12 October 2022

Article 5(b)(1) of Council Regulation (EU) No 833/2014 provides that: "*It shall be prohibited to accept any deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia,, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds 100 000 EUR.*"

The prohibition applies to deposits from Russian nationals or natural persons residing in Russia.

However, pursuant to the exception in Article 5b(3), the prohibition does not apply to nationals of a Member State, a country Member of the European Economic Area or Switzerland, or natural persons having a temporary or permanent residence permit in one of these countries.

This means that the accounts of Russian nationals who also have the nationality of one the above countries can be credited above EUR 100 000.

13. **Should the broad term "entities" in Article 5b(1) be interpreted as including subsidiaries of European financial institutions in Russia and could it therefore stop them from conducting ordinary business operations, including moving money to nostro accounts or conducting business with other EU banks with which they hold accounts?**
Last update: 12 October 2022

The term 'entities' in Article 5b of Council Regulation (EU) No 833/2014 comprises all entities established in Russia, including subsidiaries of EU operators which are incorporated in Russia.

Pursuant to Article 5b(1), deposits of a subsidiary in Russia cannot in principle be accepted. However, pursuant to Article 5c(1)(f), competent authorities can authorise deposits that are necessary for non-prohibited cross-border trade in goods and services. Moreover, Article 5c and 5d enable the competent authorities of the Member States to authorise the acceptance of such deposits in other limited and well-defined circumstances.

14. **Does the prohibition for EU credit institutions to accept deposits from Russian legal and natural persons, or from a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia) above EUR 100 000 refer only to new or also to existing deposits?**
Last update: 12 October 2022

The prohibition is to accept any new deposits if the total value of deposits of the natural or legal person, entity or body per credit institutions exceeds EUR 100 000. Implicitly this means that those deposits that are already in EU banks can remain there but their value cannot be further increased above EUR 100 000. The reporting obligation applies to all deposits that exceed the specified value. In practice, this means that:

1. For new deposits:

   EU operators must not accept (new) deposits if the total value of deposits of the natural person or legal person, entity or body per credit institution exceeds EUR 100 000.

2. For existing deposits:

   - If the natural person or legal person, entity or body had more than EUR 100 000 in deposit on the day of entry into force of the Regulation (26 February 2022; or 21 July 2022 for a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia), the relevant deposit is grandfathered. This means that the natural person or legal person, entity or body

is entitled to keep the money and do whatever he/she/it wants (e.g. withdraw, leave in the account), but he/she/it cannot increase the balance in a way that would exceed EUR 100 000 (unless the competent authority of a Member State grants an authorisation under Article 5c or 5d)

- If the natural person or legal person, entity or body had less than EUR 100 000, it is entitled to increase the account balance up to EUR 100 000 (but not more) per credit institution.

15. **Russian nationals and persons residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia, could have various accounts outside of Russia. If the deposit being received at our bank is generated outside of Russia, does this transaction fall under the EUR 100 000 limitation?**
Last update: 12 October 2022

Yes, it does. If the deposit belongs to a Russian national or natural person residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia, the transaction would fall under the EUR 100 000 limitation. Banks that have to comply with Council Regulation 833/2014 need to monitor incoming deposits from Russian nationals and natural persons residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia, to ensure that the EUR 100 000 limit is not exceeded. Banks also have a reporting obligation under Article 5g(1)(a) regarding the accounts of Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia that they operate and whose balance exceeds EUR 100 000.

16. **With regard to legal persons, is there a prohibition on deposits per legal entity or should the group structure be considered?**
Last update: 12 October 2022

The prohibition in Art. 5b applies per legal entity.

17. **Are limits targeting new deposits received from 26 February 2022 (or from 21 July 2022 in case of a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia)? Does any account balance held for Russian nationals and residents fall into the targeted categories? If yes, what action would be required on balances held at the bank that are over EUR 100 000?**
Last update: 12 October 2022

The deposit shall not be accepted if it is from a Russian national, a natural person residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia

As regards existing deposits of persons whose account cannot be credited in excess of EUR 100 000, if the account holder had more than EUR 100 000 in deposit on the day of entry into force of the provision (26 February 2022 or 21 July 2022), the relevant deposit is grandfathered. This means that the account holder is entitled to keep the money and do whatever he/she/it wants (e.g. withdraw, leave in the account), but they cannot increase the balance so it exceeds EUR 100 000 (unless the competent authority of a Member State grants an authorisation under Article 5c or 5d).

As regards new deposits, EU operators must not accept them if the total value of deposits of the natural person or legal person, entity or body per credit institution exceeds EUR 100 000.

18. **Financial instruments, as defined in Section C of Annex I to Directive 2014/65/EU, are not qualified as deposits. Should other financial assets than financial securities be qualified as deposits? For example, do they include express trusts and similar legal entities or arrangements; a legal entity or special structure whose object is to manage wealth of its legal representative or Ultimate Beneficial Owner?**
Last update: 3 May 2022

Article 1(k) of Council Regulation (EU) No 833/2014 (the Sanctions Regulation) provides the following definition of deposit:

(k) "deposit" means a credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable, including a fixed term deposit and a savings deposit, but excluding a credit balance where:

1. *its existence can only be proven by a financial instrument as defined in Article 4(1)(15) of Directive 2014/65/EU of the European Parliament and of the Council, unless it is a*

savings product which is evidenced by a certificate of deposit made out to a named person and which exists in a Member State on 2 July 2014

2. *its principal is not repayable at par*

3. *its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party*

It would be up to the credit institution to assess whether the individual product/circumstance therefore falls within this definition of 'deposit'.

19. Is it correct that "deposit" does not include any credit/debit entry or cash flow resulting from transactions or corporate events, whether linked or not with financial instruments, as defined in Annex I to Directive 2014/65/EU?
Last update: 12 October 2022

The prohibition provides that: "*It shall be prohibited to accept any deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds EUR 100 000.*" Therefore, if the transaction or corporate event results in a positive cash flow, and thereby becomes a deposit as defined under Article 1(k), into an account which cannot be credited above EUR 100 000, the incoming cash flow should be rejected.

Note: payments made by CSD participants for the settlement of transactions that are not affected by the sanctions set out in Council Regulation (EU) No 833/2014 may benefit from a derogation if authorised by the competent authority under Article 5c(1)(f) where the acceptance of such a deposit is considered to be "*necessary for non-prohibited cross-border trade in goods and services between the Union and Russia.*" Then, if the counterparty to the transaction who receives the cash payment is a Russian person, the provisions in Article 5b applies to any further transfer of the cash out of the account where it was credited in the context of the settlement of the transaction.

20. What should a bank do if it has already received the deposit?
Last update: 12 October 2022

The bank should not accept the deposit. If the deposit was received before the sanction entered into force on 26 February 2022, the deposit can however be kept in the account. Violations of the prohibition will be treated according to national law, and that NCAs can advise on that.

21. Is it correct that the concept of "total value" must be calculated taking into account customers' positions with the bank in current accounts and deposits at the point in time when the restrictions entered into force?
Last update: 3 May 2022

This is correct.

22. Does the concept of "total value" have to be calculated taking into account customers' accounts in currencies different from the euro?
Last update: 3 May 2022

Yes, the total value should take into account all deposits per credit institution, irrespective of the currency in which they are denominated.

23. Does the meaning of "deposit" also include (i) accounts opened to hold collateral for financing arrangements (ii) shared accounts, for example accounts of spouses?
Last update: 3 May 2022

i. Collateral would fall within the exemption of the definition of deposit as set out in Article 1(k)(iii). However, if accounts used to hold collateral have excess collateral, EU operators should ensure, via their due diligence, that this excess collateral is not held in the account with the purpose of circumventing the prohibition in Article 5b.

ii. In case the person with whom the account is shared falls within the scope of the prohibition (i.e. being a Russian national or a natural person residing in Russia, or a legal person, entity or body established in Russia), then these deposits fall within the scope of the prohibition. As the prohibition applies per natural or legal person, entity or body, the total value of the deposits can be split over two persons to calculate whether the individual value of the deposits exceeds EUR 100 000. In this case, for an account shared by two persons both subject to the prohibition, the maximum value of deposits which can be held per credit institution would be EUR 200 000.

The prohibition does not apply to EU nationals, nationals of a European Economic Area country or of Switzerland, or natural persons having a temporary or permanent residence permit in a Member State, in a country member of the European Economic Area or in Switzerland. (Article 5b(3)). In case any of those persons jointly holds the account, the prohibition does not apply. However, the joint account cannot be used to circumvent the rules (Article 12).

24. **Does the meaning of "deposit" also include correspondent accounts for Russian banks, especially of Russian bank subsidiaries of banks headquartered in the EU?**
Last update: 12 October 2022

The prohibition applies to deposits from "legal persons, entities or bodies established in Russia". Russian banks, including subsidiaries of banks headquartered in the EU, would fall under that definition and would therefore be subject to the prohibition. However, the deposit may benefit from a derogation if authorised by the competent authority under Article 5c(1)(f) where the acceptance of such a deposit is considered to be necessary for non-prohibited cross-border trade in goods and services between the European Union and Russia. Whether the deposit issued from the correspondent account qualifies for this derogation would need to be assessed on a case-by-case basis.

25. **Is it correct that any portion of a credit entry in excess to the EUR 100 000 aggregated limit should not be blocked but returned to the remitting bank or wired outward according to our customer instructions?**
Last update: 3 May 2022

Council Regulation (EU) No 833/2014 prohibits the acceptance of deposits, but does not prescribe how credit institutions should do this. This will be left to the individual institution to decide, possibly in dialogue with the relevant customer.

26. **Should interest, dividend payments or coupon payments be booked if the EUR 100 000 limit is already exceeded?**
Last update: 3 May 2022

The payment of interest or dividend should in this case not be accepted. Where and how the interest or dividend payment should be made to would need to be decided by the parties involved.

27. **Do legal persons, registered or established outside Russia, whose ultimate beneficial owner meets the criteria laid down in Article 5b(1), but not the exception criteria in Article 5b(2) or 5b(3), fall within the scope of the Regulation?**
Last update: 12 October 2022

The prohibition in Article 5b of Regulation 833/2014 initially only applied to Russian nationals or natural person residing in Russia or any legal person, entity or body established in Russia. Strictly speaking, it did not apply to entities owned by Russian/ nationals or natural persons residing in Russia when the entities are registered in a country other than Russia.

However, with the amendment of Council Regulation 833/2014, which entered into force on 21 July 2022, from that date Article 5b also applies to a legal person, entity or body established

outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia.

In addition, the provision should be read in conjunction with Article 12 of Council Regulation 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. EU operators should therefore exert enhanced due diligence when the deposit is made to an account of an entity owned by a Russian/Belarussian national or a natural person residing in Russia.

28. Does Article 5b(3) exclude dual nationals (having Russian nationality and the nationality of an EU Member State) as well as persons of Russian nationality who have a temporary or permanent residence permit in another Member State?
Last update: 3 May 2022

Yes, it does.

29. How is the term "temporary or permanent residence permit in a Member State, in a country member of the European Economic Area or in Switzerland" in Article 5b(3) of Council Regulation (EU) 833/2014 defined?
Last update: 3 May 2022

Each State defines its own national rules thereon. However, it is worth recalling that pursuant to Article 12, it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

30. Does the term "Russian nationals" in Article 5b of Council Regulation (EU) No 833/2014 also include refugees from Russia who might not be able to easily discard their nationality and who might have found refuge in a non-EU country (such as Switzerland or Norway)?
Last update: 3 May 2022

Dual nationals whose one nationality would be that of a Member State or a country that is a member of the European Economic Area or Switzerland, or otherwise natural persons having a temporary or permanent residence permit in a Member State or a country that is a member of the European Economic Area or Switzerland, fall under the exception laid down in Article 5b(3). If the dual nationality falls outside the scope of this exception (i.e. a dual national having both a Russian nationality and a nationality of a country other than that of a member of the European Union, the European Economic Area or Switzerland), the prohibition in Article 5b would apply.

31. Does the restriction apply per banking licence or to a combination of EU banks?
Last update: 3 May 2022

The restriction applies per banking license.

32. What are the criteria for joint account holders to deposit euros into bank accounts?
Last update: 12 October 2022

In cases where the two persons who share the account both fall within the scope of the prohibition to have deposits in excess of EUR 100 000, then the joint account falls within the scope of the prohibition. As the prohibition applies per natural or legal person, entity or body, the total value of the deposits can be split over the two persons. For an account shared by two in-scope persons, the maximum value of deposits allowed to be held per credit institution would therefore be EUR 200 000.

In cases where one of the joint-account holders benefit from the exemption laid down in Article 5b(3), the prohibition to have deposits in excess of EUR 100 000 does not apply. However, pursuant to Article 12, the joint account shall not be used to circumvent the rules.

33. Can currency exchange transactions be processed on behalf of a Russian national without account opening?
Last update: 3 May 2022

This would be permissible as long as it does not result in deposits being accepted if the total value of deposits of the natural person or legal person, entity or body per credit institution exceeds EUR 100 000.

34. How are basic accounts requested by refugees treated?
Last update: 3 May 2022

Basic accounts are treated no differently from other accounts. The prohibition as set out in Article 5b, including the derogations for example set out in Article 5c(1)(a) for the basic needs of those in scope of the prohibition, would apply.

35. How should the bank proceed if a deposit of a Russian national with temporary or permanent residence in a Member State exceeds EUR 100 000 and his/her residence permit later on expires or get revoked? Is there an obligation to reduce or block the amount of deposits exceeding EUR 100 000?
Last update: 3 May 2022

When the residence permit is revoked, the Russian national no longer benefits from the exception to the prohibition in Article 5b(3). As the prohibition would start applying from that point in time, there would be no obligation to retrospectively reduce or block deposits exceeding

EUR 100 000. From the point of revocation of the residence permit, it shall however be prohibited to accept any new deposit if the account balance is in excess of EUR 100 000.

36. How should a Russian person who acts on behalf of an EU account holder and also carries out transactions including cash deposits on the account be treated regarding the prohibition in Article 5b?
Last update: 12 October 2022

The prohibition in Article 5b applies to the deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia. Managing an account is not per se prohibited under the Regulation, however making deposits into it may fall under the prohibition if the other conditions are met. Note also that, EU operators should ensure, via their due diligence, and pursuant to Article 12 of Council Regulation 833/2014, that prohibitions are not circumvented.

37. If a Russian national sells a property, in order to receive the purchase price, can he or she refer to a bank account in the EU or in a third country?
Last update: 17 May 2022

Yes. The restriction in Article 5b(1) of Council Regulation (EU) No 833/2014 concerns deposits from Russian nationals or natural persons residing in Russia or legal persons, entities and bodies established in Russia. It follows that EU operators are not prohibited from making payments into the accounts held by these persons in the EU or in third countries.

If the buyer fit one of the criteria in Article 5b(1), EU credit institutions would in principle not be able to receive the purchase price if the amount threshold was reached. However, according to Article 5b(4), the restriction does not apply to deposits which are necessary for non-prohibited cross-border trade in goods and services between the Union and Russia. It should be noted that it is prohibited for EU operators to take part in any activities seeking to circumvent EU restrictive measures, for instance by acting as a substitute for a person referred to in Article 5b(1).

38. If a Russian national acquires a property in the EU, can he or she transfer the purchase price from a bank account in the EU or in a third country?
Last update: 17 May 2022

The restrictions in Article 5b(1) of Council Regulation (EU) No 833/2014 concern the acceptance of deposits, not the use of them. A Russian national holding deposits in a bank account in the EU is therefore entitled to keep the money and do whatever The restriction in Article 5b(1) of Council Regulation (EU) No 833/2014 concerns any deposits from Russian nationals or natural persons residing in Russia or legal persons, entities and bodies established in

Russia. However, according to Article 5b(4), this does not apply to deposits which are necessary for non-prohibited cross-border trade in goods and services between the Union and Russia. It should be noted that it is prohibited for EU operators to take part in any activities seeking to circumvent EU restrictive measures, for instance by acting as a substitute for a person referred to in Article 5b(1).

39. According to Article 5g imposing reporting obligations, could you please clarify to which Member State credit institutions shall report?
Last update: 23 May 2022

The reporting instructions from the EBA template stipulate that: "*Credit institutions shall provide to the national competent authority of the Member State where they are located or to the Commission information regarding deposits as specified in Article 5g(1) of RSR and Article 1z of BSR. […] The underlying data shall be reported by credit institutions on an individual basis, including data for their branches in the EU or third countries (data for branches to be included in the institution's report)*."

Examples:

- Parent credit institution in Member State X: Parent credit institution reports its deposits to the NCA for sanctions in Member State X;
- Branch in Member State Y of the parent credit institution in Member State X: Parent credit institution in Member State X reports deposits of its branch in Member State Y to the NCA for sanctions in Member State X;
- Subsidiary in Member State Y of the parent credit institution in Member State X: Subsidiary reports its deposits to NCA in Member State Y;
- Branch in Russia of its subsidiary in Member State Y of the parent credit institution in Member State X: Subsidiary reports deposit of the Russia branch to NCA in Member State Y.

40. Can a Russian national, a natural person residing in Russia or a legal person established in Russia re-pay a loan obtained from an EU credit institution?
Last update: 12 October 2022

In principle, it is possible for a Russian national, a resident or a legal persons established in Russia to re-pay a loan obtained from an EU credit institution, provided that such re-payment does not fall within the scope of the prohibition laid down in Article 5b(1) of Council Regulation (EU) 833/2014 (i.e. cumulatively, the total value of deposit of the natural or legal person, entity or body per credit institution does *not* exceed EUR 100 000).

In that case, subject to a case-by-case assessment, the loan re-payment could nevertheless benefit from the exemption laid down in Article 5c(1)(f) regarding deposits necessary for non-prohibited cross-border trade in goods and services between the Union and Russia.

Nonetheless, EU credit institutions should recall that engaging in any type of activity aimed at circumventing sanctions is prohibited under Article 12 of that Regulation.

41. Can national competent authorities grant bundled authorisations for 'non-prohibited cross-border trade in goods and services between the Union and Russia under Article 5c, paragraph 1, point (f)?
Last update: 12 October 2022

Yes. National competent authority could grant bundled authorisations for similar operations and transactions. By way of example, a national competent authority could grant an individual authorisation to a specific bank for a number of similar or identical operations to be carried out during a specific timeframe (e.g. weekly). That authorisation could be coupled with reporting obligations at the end of said period to ensure that the authorisation has been used properly.

42. Can a company established in a third country that is majority owned for more than 50% by Russian nationals or natural persons residing in Russia benefit from the derogation under Article 5c, paragraph 1, letter f) (non-prohibited cross-border trade), even if trade is between the EU and the third country where that company is established?
Last update: 12 October 2022

Yes. Article 5b of Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/1269, entails the prohibition to accept any deposits from Russian nationals or natural persons residing in Russia, legal persons, entities or bodies established in Russia or a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50% by Russian nationals or natural persons residing in Russia, if the total value of deposits of that natural or legal person, entity or body per credit institution exceeds EUR 100 000. Therefore, such prohibition also extends to non-EU companies that are majority owned by Russian for more than 50 % by Russian nationals or natural persons residing in Russia.

According to Article 5c, paragraph 1, letter (f), national competent authorities may authorise the acceptance of a deposit after having deemed that it is necessary for non-prohibited cross-border trade in goods and services between the Union and Russia. Companies established in a third country that are majority owned for more than 50 % by Russian nationals or natural persons residing in Russia may also benefit from such a derogation, as far as they are subject to EU sanctions and, in such a case, like EU operators, under the specific condition that such trade involves Russia. It is for the company or companies required to comply with EU sanctions to provide sufficient evidence for that purpose to the NCA.

43. Article 5b(1) now also applies to a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia. Is this also the case if the Russian national or natural person residing in Russia directly or indirectly owning the proprietary rights for more than 50% benefits from the exemption in Article 5b(3)?
Last update: 12 October 2022

If the Russian national or natural person residing in Russia also has a citizenship or residence rights of an EU/EEA member state or Switzerland, the legal person, entity or body majority, owned by this person, that is established outside the Union can benefit from that exemption, with the exception of those established in Russia. In this case, the fact that the owner is a Russian national or natural person residing in Russia that also has citizenship or residence rights of an EU/EEA member state or Switzerland does not render the legal person, entity or body eligible for the exemption.

44. Can profits generated from collateral be considered as excess collateral for these purposes and exempt from the definition of "deposit" set out in Article 1(k)(iii) and therefore can these profits remain/be deposited in the account?
Last update: 12 October 2022

If the profits generated from the collateral are held in the account with the intention of continuing to use them as collateral, they could fall within the exemption of the definition of deposits. If the intention is to accumulate them as regular deposits and not use them as collateral in the future, this should qualify as a regular deposit. So the holder of the collateral and the credit institution facilitating the account in which the collateral is held, should consider the intended use of the profits generated.

45. Can profits generated from collateral be remitted to credit institutions outside of the European Union?
Last update: 12 October 2022

In principle, there is no restriction on crediting profits to credit institutions outside the European Union. However, a case by case assessment is necessary to verify if the action qualifies as a scheme to circumvent sanctions. Circumvention can occur for instance if the operation is set up to carry out an operation that, apparently legitimate, it has the sole purpose of neutralizing the effect of sanctions.

6. CRYPTO-ASSETS

RELATED PROVISION: ARTICLE 5B OF COUNCIL REGULATION 833/2014; COUNCIL REGULATION 269/2014

1. **Are crypto-assets and in particular cryptocurrencies covered by these sanctions?**
   Last update: 21 March 2023

In Council Regulation (EU) No 269/2014, the non-exhaustive definition of 'funds' covers crypto-assets, including cryptocurrencies, and the definition of 'economic resources' may also extend to certain crypto-assets. As such, crypto-assets are covered by the relevant provisions on the asset freeze and prohibition to make funds or economic resources available to listed persons. For its part, Council Regulation (EU) No 833/2014 clarifies that 'transferable securities' include crypto-assets, but it adds 'with the exception of instruments of payment'. To summarise, all transactions prohibited in the Regulations are also prohibited if carried out in crypto-assets, and all transactions allowed in the Regulations remain allowed if carried out in crypto-assets. In addition, crypto-assets should not be used to circumvent any EU sanctions.

2. **Article 5b(2) of Council Regulation (EU) No 833/2014 states that "It shall be prohibited to provide crypto-asset wallet, account or custody services to Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia"." Does this mean that European operators are expected to close the crypto accounts of their Russian customers and return their digital assets, or the freezing of these assets?**
   Last update: 21 March 2023

The prohibition means that no new services and/or accounts are allowed and existing services and.or accounts must be closed. In the latter case assets on the accounts and/or in the services should be returned to the Russian customer, or be converted into fiat currency or another asset category that is not subject to sanctions.
The provisions should be read in conjunction with the limit on deposits laid on in Article 5b of Council Regulation (EU) No 833/2014. To this extent, the converting of crypto-assets in fiat deposits would permissible up to the amount allowed for deposits.
No freezing of assets is foreseen under this article.

7. CENTRAL SECURITIES DEPOSITORIES

RELATED PROVISION: ARTICLE 5e, ARTICLE 5f OF COUNCIL REGULATION 833/2014

1. **A central securities depository (CSD) is contacted after 12 April 2022 by the issuer of a new security. That issuer submits a list of investors. In the process of verification of the issuance, the CSD determines that one or more of the investors is a person to whom the CSD is not allowed to provide services under the prohibition in Article 5e of Council Regulation (EU) no. 833/2014. In order to successfully register the entire issuance in the depository, the CSD would also have to enter all the securities, including the securities purchased by a person to whom it is not allowed to provide the service. How should the CSD handle the situation in order to comply with Article 5e of Regulation (EU) no. 833/2014?**
   Last update: 26 April 2022

The CSD should coordinate with the issuer in order to ensure that it will not register the securities purchased by a person to whom it is not allowed to provide services.

2. **Is this correct that the prohibition in Article 5e of Council Regulation (EU) no. 833/2014 does not apply to existing securities for which, until 12 April 2022, the central securities depository provided services to Russian citizens or natural persons residing in Russia or to all legal persons, entities or bodies established in Russia?**
   Last update: 26 April 2022

It is correct. The prohibition only applies in respect of transferable securities issued after 12 April 2022. The prohibitions set out in other articles of Council Regulation (EU) no. 833/2014 should however be considered on a case by case basis, for instance those in Articles 5 and 5b. Practical issues relating to the fungibility of securities which are outside the prohibition with securities subject to the prohibition may arise. Market participants bear the onus of ensuring that any trade they enter into do not involve the banned securities.

3. **Is it correct that the prohibition in Article 5e of Council Regulation (EU) no. 833/2014 does not apply to a situation in which, after 12 April 2022, a Russian citizen or natural person residing in Russia or a legal person, entity or body established in Russia would request the CSD to provide new services for existing securities issued before 12 April 2022?**
   Last update: 26 April 2022

It is correct. The prohibition only applies in respect of transferable securities issued after 12

April 2022. The prohibitions set out in other articles of Council Regulation (EU) no. 833/2014 should however be considered on a case by case basis, for instance those in Articles 5 and 5b. Practical issues relating to the fungibility of securities which are outside the prohibition with securities subject to the prohibition may arise. Market participants bear the onus of ensuring that any trade they enter into do not involve the banned securities.

4. **How can a CSD apply Article 5e of Council Regulation 833/2014 where the securities accounts opened with the CSD do not identify the underlying clients but only the custodian?**
   Last update: 26 April 2022

The CSDs shall use all relevant information that is available to them to ensure they can identify whether the underlying clients are Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia. To the extent possible, CSDs shall also cooperate with their participants in that respect.

5. **On what basis should CSDs performing initial recording of securities (notary service) verify on whose behalf the securities were issued? Can CSDs base their verification on the issuer's declaration/statement?**
   Last update: 26 April 2022

The CSDs shall use all relevant information that is available to them to ensure they can identify whether the underlying clients are Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia. To the extent possible, CSDs shall also cooperate with their participants in that respect.

6. **For CSDs with end-investor accounts, i.e., where the beneficial holder of securities may hold securities account directly with the CSD, will the restrictive measures apply to the CSDs provision of services to such securities account holders even though they are not participants?**
   Last update: 26 April 2022

Yes, the restrictive measures will apply. Article 5e does not limit to the provision of services to participants.

7. **For CSDs with end-investor accounts, will the restrictive measures prohibit the CSD from opening a new beneficial holder securities account after 12 April 2022 in respect of a person or entity covered by the prohibition laid down in Article 5e of Council Regulation 833/2014?**
Last update: 26 April 2022

Yes, since this would amount to providing a service mentioned in the Annex of Regulation (EU) No 909/2014 to a person covered by the prohibition laid down in Article 5e of Council Regulation 833/2014.

8. **For CSDs with end-investor accounts, will the restrictive measures prohibit the CSD from opening a new nominee (omnibus) securities account after 12 April 2022 in respect of a person covered by the prohibition laid down in Article 5e of Council Regulation 833/2014?**
Last update: 26 April 2022

Yes, since this would amount to providing a service mentioned in the Annex of Regulation (EU) No 909/2014 to a person covered by the prohibition laid down in Article 5e of Council Regulation 833/2014.

9. **Does the term "any services" in Article 5e of Council Regulation 833/2014 relate to core services only or also to ancillary services? Does Article 5e of Council Regulation 833/2014 also apply to ancillary services provided by CSDs under separate Regulations, for instance as trade repositories under Regulation (EU) No 648/2012 or Regulation (EU) 2015/2365, providing services as an ARM or issuing LEI codes?**
Last update: 26 April 2022

As long as the service is defined in the Annex of Regulation (EU) No 909/2014, it falls under the prohibition laid down in Article 5e of Council Regulation 833/2014. This may go beyond 'core services'.

10. **May CSDs provide services to persons covered by the restrictions laid down in Article 5e of Council Regulation 833/2014 in respect of corporate actions, such as the issuance of new shares in a security that was issued in the CSD before 12 April 2022?**
Last update: 26 April 2022

Providing services related to the issuance of new shares would amount to providing services in respect of new transferable securities. After 12 April 2022, CSDs shall not provide such services.

11. **Does Article 5e of Council Regulation 833/2014 prohibit the CSD from granting access to a new participant, if this participant is a person or entity covered by the prohibition laid down in Article 5e of Council Regulation 833/2014?**
Last update: 26 April 2022

Article 5e does not *per se* prohibit this to the extent that the CSD provides services only in respect of transferable securities issued before 12 April 2022. However, note that Article 5 of Council Regulation (EU) No 833/2014 may prohibit this in respect of certain designated persons and entities in Annexes III, V, VI, XII, XIII. By granting access to a new participant, a CSD would indeed be considered as, directly or indirectly, providing investment services for or assistance in the issuance of, or otherwise deal with transferable securities.

12. **Do the restrictive measures in Article 5e of Council Regulation 833/2014 apply to nationals of a member state having a temporary or permanent residence permit in Russia?**
Last update: 26 April 2022

No, they do not. Paragraph 2 of Article 5e expressly provides that paragraph 1 shall not apply to nationals of a Member State.

13. **Should we apply a different approach to instructions to transfer securities with no cash exchange (i.e. free of payment) compared to instructions to transfer securities against payment? Would there be a difference if the Russian party would be receiving securities or cash (depending on whether the instructions is to buy or to sell securities)?**
Last update: 26 April 2022

The only difference regarding instructions to transfer securities with no cash exchange (i.e. free of payment) compared to instructions to transfer securities against payment is the application of Article 5b of Council Regulation (EU) No 833/2014 in the context of instructions to transfer securities against payment.

However, payments made by participants to a CSD for the settlement of transactions that are not affected by the restrictive measures laid down in Council Regulation (EU) No 833/2014 should be considered as benefiting from the exemption set out in Article 5b(3). If the counterparty to the transition who receives the cash payment is a Russian national or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, the provision in Article 5b of Council Regulation (EU) No 833/2014 shall apply to any transfer of the cash out of the account where it was credited further to the settlement of the transaction.

14. **Is the acceptance of deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia allowed for CSDs, if the total value of deposits of the natural or legal person, entity or body receiving the deposit exceed exceeds 100 000 EUR per credit institution (Article 5b)? Does the prohibition in Article 5b of Council Regulation 833/2014 cover income payments linked to non-sanctioned securities above the value of EUR 100 000 collected/received on behalf of sanctioned customers?**
Last update: 26 April 2022

The prohibition laid down in Article 5b applies to CSDs as well. If the counterparty to the transaction is a Russian national or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, Article 5b shall apply to any transfer of the cash out of the account where it was credited further to the settlement of the transaction. Note that payments made by participants to a CSD for the settlement of non-prohibited cross-border trade in goods and services under Council Regulation (EU) No 833/2014 should nonetheless be considered as benefiting from the exemption laid down in Article 5b(3).

The prohibition also covers income-payment linked to non-sanctioned securities like dividends.

15. **Is the settlement of transactions executed on securities targeted by Articles 5(1) to 5(4) of Council Regulation (EU) No 833/2014 allowed? Are securities that have been issued between the 1st of August 2014 and 12 of April 2022 covered?**
Last update: 26 April 2022

CSDs must comply with the restrictions laid down in Articles 5(1) to 5(4). The settlement of securities issued before 26 February 2022 is prohibited for securities issued by entities listed in the Annexes, when they have a maturity exceeding 90 days and were issued between 1 August 2014 and 12 September 2014, as well as for securities with a maturity exceeding 30 days if issued between 12 September 2014 and 12 April 2022. The settlement of these transactions would indeed constitute investment services.

16. **Does Article 5e of Council Regulation (EU) No 833/2014 only cover transactions on the primary market or also on the secondary market?**
Last update: 26 April 2022

Transactions on both the primary and secondary markets are covered by Article 5e.

17. **While the prohibition on listing in Article 5(5) of Council Regulation (EU) No 833/2014 apply in respect of any legal person, entity or body established in Russia and with over 50 % public ownership, Article 5(e) on the provision of services by**

Union central securities depositories apply in respect of any issuer who is a Russian national or natural person residing in Russia or any legal person, entity or body established in Russia. A practical consequence is that while nonstate-owned Russian companies could apply for being listed on a trading venue as per Article 5(5), this is in fact rendered impossible by the fact that they may not have their securities registered in a CSD. Is this is a correct interpretation?
Last update: 26 April 2022

The prohibition in Article 5e indeed applies to services provided by CSDs to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia in relation to transferable securities issued after 12 April 2022.

CSDs are therefore prohibited from providing services to Russian issuers in relation to securities issued after 12 April 2022. This limits de facto the possibility for Russian issuers to proceed with the initial recording of securities in the EU.

18. **Under Article 5e of Regulation 833/2014, is our understanding correct that an EU person majority owned or controlled by a person incorporated in Russia is not subject to a general restriction on services by central securities depositaries (CSDs) in relation to any transferable securities issued after 12 April 2022? More specifically, would a special purpose vehicle (SPV) established in an EU Member State but owned by a Russian corporate be subject to the restriction under Article 5e?**
Last update: 26 April 2022

Strictly speaking, EU persons are indeed not the target of the prohibition to provide CSD services under Article 5e of Council Regulation 833/2014. However, in the present case, it is highly likely that the provision of services by the CSD would in fact benefit the Russian entity, as it owns the SPV established in the EU. This would be the case for instance if the SPV would issue securities on behalf of its Russian parent. As a result, such a scheme would have the effect of circumventing the restriction under Article 5e, something that it is prohibited under Article 12 of Council Regulation 833/2014.

19. **Is the Russian National Securities Depository (NSD) considered to be subject to the EU Sanction regime?**
Last update: 16 June 2022

The National Settlement Depository has been included in the list of entities which need to have their funds and economic resources frozen, in Annex I of Council Regulation 269/2014.

20. **In a situation where a European investment firm owns equities of non-Russian issuers that are currently held in the Russian National Securities**

Depository (NSD), is the transfer of such equities from the NSD to an EU-based central securities depository allowed under Council Regulation 833/2014?
Last update: 30 June 2023

According to Articles 5e and 5f, it is prohibited for EU CSDs to provide any services for transferable securities issued after 12 April 2022, to sell transferable securities denominated in any official currency of a Member State issued after 12 April 2022, or denominated in any other currency issued after 6 August 2023, or units in collective investment undertakings providing exposure to such securities, to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia.

With Article 5e applying to all transferable securities issued after 12 April 2022 and Article 5f applying to all transferable securities denominated in any official currency of a Member State issued after 12 April 2022, or denominated in any other currency issued after 6 August 2023 ,the fact that the equities at stake are issued by non-Russian nationals does not affect the application of these Articles.

However, EU CSDs should assess if, in practice, the transfer of such equities would characterise the provision of CSD services (either core or ancillary) or the sale of transferable securities to Russian national or natural person residing in Russia or any legal person, entity or body established in Russia. In particular, EU CSDs must assess if the NSD is only acting as a custodian in respect of these securities, or if it is providing some services like central maintenance services or operating securities accounts in relation to the settlement service, as mentioned in Sections A and B of the Annex to CSDR, which could imply that after the transfer, EU CSDs would also provide such services to the clients.

In that case, EU CSDs must use all relevant information that is available to them to ensure they can identify whether the underlying clients are Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia. To the extent possible, CSDs must also cooperate with their participants in that respect.

In parallel, NSD is subject to an asset freeze and a prohibition to make funds or economic resources available to it or for its benefit, under Council Regulation (EU) 269/2014. Therefore, please also refer to FAQ 21.

Please also note that Article 5b, prohibiting to accept any deposits exceeding EUR 100 000 from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia or legal persons, entities or bodies established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50 % by Russian nationals or natural persons residing in Russia, is not applicable in that situation because Article 1k excludes securities from the definition of deposits.

21. Is it possible to make a transaction through the Russian National Securities Depository (NSD)?

Last update: 12 August 2022

The inclusion of the NSD in Annex I to Council Regulation (EU) No 269/2014, coupled with Article 2(2) of that legal act, implies it is not possible anymore to instruct any transaction which may, directly or indirectly, result in any charge payable to the NSD or any other funds or economic resources to or for the benefit of NSD. Therefore, all activities which involve, directly or indirectly, to pay a fee to NSD or to make available to or for its benefit any other funds or economic resources, are prohibited. Under Article 2(2) of Council Regulation (EU) No 269/2014, activities may continue that are not otherwise subject to sanctions and where NSD does not receive or benefit from fees or other funds or economic resources as a direct or indirect consequence. Note that 'funds' and 'economic resources' are defined broadly in Council Regulation (EU) No 269/2014.

In parallel, all assets belonging to, owned, held or controlled by NSD must be frozen, as per Article 2(1) of Council Regulation (EU) No 269/2014. That includes funds as well as economic resources coming from it. See in this regard the Commission opinion of 4 July 2019 which states, in a similar scenario, that funds of a non-listed person that are deposited in or even just transferred to a listed bank can be considered to be "held", albeit temporarily, by the listed bank in question. Article 2(1) does not require a minimum duration for the possession of the funds by the listed entity. This means that, in respect of incoming transfers from NSD, it will be possible to request from the relevant national competent authority an authorisation to release of those funds, under such conditions as they deem appropriate, under the derogation envisaged in Article 6 of Council Regulation (EU) No 269/2014 concerning a payment by a listed person under a contract concluded before the date on which that person was listed.

22. Is it possible to convert Depositary Receipts (DR) of Russian issuers into the underlying shares?

Last update: 24 July 2024

The conversion of DRs would likely involve NSD, an entity listed in Annex I to Council Regulation (EU) No 269/2014. As a result of this listing, all funds and economic resources belonging to, owned, held or controlled by NSD must be frozen, and no funds or economic resources can be made available to it, whether directly or indirectly. See also FAQ 21.

When NSD is involved in the conversion of DRs, even if certain fees are formally waived, it is possible that the conversion results in directly or indirectly making available funds and economic resources to or for the benefit of NSD (e.g. from settlement fees charged to third parties) – which is prohibited.

Nevertheless, it should be noted that Article 6b(5) of Council Regulation (EU) No 269/2014 enables NCAs to authorise the release of certain frozen funds belonging to NSD, or the making

available of certain funds or economic resources to NSD, if these funds or economic resources are necessary for the wind-down by 7 January 2023 of operations involving NSD.

In any case, the conversion implies that DR holders are required to become the direct holders of the underlying stock, thus forcing direct participation of foreign investors in the Russian market and exposing them to the application of Russian law. In particular, Russian law requires the opening of a bank account in Russia. In the event Russian banks were to accept this operation, the funds would likely remain blocked on a C-type account. At the same time, a number of Russian banks are listed in Annex I to Council Regulation (EU) No 269/2014, or affected by the measures in Council Regulation (EU) No 833/2014. Altogether, this means that in practice it might be impossible for EU investors to comply with Russian requirements for conversion and subsequently access their securities.

23. Under the derogation provided for in Article 6(b)5aa of Council Regulation (EU) No 269/2014, is it possible to convert Depositary Receipts on the basis of an authorisation granted by the national competent authorities of the Member States after 25 December 2023?
Last update: 24 July 2024

Yes. Article 6(b)5aa of Council Regulation (EU) No 269/2014 enabled NCAs to grant an authorisation by 25 December 2023 to allow the conversion by nationals or residents of a Member State, or an entity established in the Union, of a depositary receipt with Russian underlying security held with the NSD for the purpose of selling the underlying security, and the making available of funds linked to the conversion of the depositary receipt and to the sale of the underlying security directly or indirectly to that entity in Russia.

For applications submitted before 25 September 2023 and authorised by the national competent authorities of the Member States before 25 December 2023, conversion of depository receipts may take place after 25 December 2023.

24. Is it allowed to perform a 'free-of-payment' transfer of Russian shares not targeted by sanctions between two sub-accounts opened within the same EU financial institutions or within the same central securities depositary ?
Last update: 24 July 2024

Yes, under certain conditions. The 'free-of-payment' transfer of a Russian security not targeted by sanctions between two counterparts with sub-accounts opened within the same financial institution or within the same central securities depository is not prohibited, provided that:

- there is no designated person involved in the transaction;

- there is no restriction regarding the trading of the Russian security concerned ;
- the transaction does not involve the payment of any fee to the NSD

In such case, no funds would be made available to NSD and no specific instruction nor information would be sent to NSD, therefore the operation is not prohibited.

25. Is it allowed to transfer or sell DRs with Russian underlying securities on the secondary market without conversion?
Last update: 24 July 2024

Yes, under certain conditions. The transfer or sale of depositary receipts with Russian underlying securities held with NSD on the secondary market is not prohibited, provided that the transaction does not involve or benefit any person or entity listed under Annex I of Council Regulation (EU) No 269/2014.

Under such condition, the transaction does not trigger any movement on the books of NSD nor does it result in making funds available to the NSD, therefore the operation is not prohibited.

26. Is it possible for EU persons and entities to participate in an 'asset swap' scheme that would be implemented within the framework of Russian Presidential decree 844?
Last update: 24 July 2024

No. It would be prohibited for EU persons and entities to participate in an "asset swap" scheme due to the involvement of the NSD, an entity listed in Annex I to Council Regulation (EU) No 269/2014. As a result of this listing, all funds and economic resources belonging to, owned, held or controlled by NSD must be frozen, and no funds or economic resources can be made available to it, whether directly or indirectly. See also FAQ 21.

For background, the Commission is aware that on 22 March 2024 Russia started the implementation of an "asset swap" scheme within the framework of Presidential decree 844. This scheme will allow Russian retail investors to submit offers to swap western securities, which are currently frozen in the NSD accounts in EU central securities depositories (CSDs), in exchange of "unfriendly" investors' funds that are blocked in Russia on C-type accounts.

8. SALE OF SECURITIES

RELATED PROVISION: ARTICLE 5f OF COUNCIL REGULATION 833/2014

1. **Does the prohibition in Article 5f of Council Regulation 833/2014 apply to transferable securities issued by private companies as well or should it should be interpreted as only referring to transferable securities issued by public companies?**
   Last update: 30 June 2023

The prohibition laid down in Article 5f of Council Regulation 833/2014 applies to transferable securities issued by both public and private companies. The purpose of this provision is to avoid the circumvention of other refinancing prohibitions laid down in the Regulation by limiting the access of any natural or legal person, entity or body in Russia to securities denominated in the official currency of a Member State.

2. **Does the prohibition in Article 5f of Council Regulation 833/2014 cover the sale of transferable securities to non-Russian entities that are owned by a Russian national or natural person residing in Russia?**
   Last update: 2 May 2022

The prohibition in Article 5f only applies to the sale of transferable securities to Russian nationals or natural person residing in Russia or any legal person, entity or body established in Russia. Strictly speaking, it does not apply to entities owned by Russian nationals or natural persons residing in Russia when the entities are registered in a country other than Russia.

However, the provision should be read in conjunction with Article 12 of Council Regulation 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. EU operators should therefore exert enhanced due diligence to make sure that they are not selling securities denominated in the official currency of a Member State to an entity owned by a Russian national or a natural person residing in Russia.

3. **Does the prohibition in Article 5b of Council Regulation 833/2014 apply to the sale of units in collective investment undertakings whose portfolio includes, after 12 April 2022, newly issued transferable securities denominated in an official currency of a Member State, regardless of the percentage they represent of the fund's assets?**
   Last update: 2 May 2022

This prohibition applies irrespective of the percentage of transferable securities issued after 12 April 2022 denominated in an official currency of a Member State. In other terms, any ownership, investment or "exposure" to transferable securities issued after 12 April 2022 by units in collective investment undertakings brings such units in collective investment undertakings within the scope of the prohibition.

4. **Where a unit-holder owns units in a collective investment undertaking with exposure to transferable securities within the scope of Article 5f(1), does the prohibition in Article 5f(1) cover the situation where the unit-holder sells its units to persons in scope of the prohibition, i.e. where the units are already pre-existing?**
   Last update: 2 May 2022

Yes, it covers this situation, if the units provide exposure to transferable securities denominated in any official currency of a Member State issued after 12 April 2022.

5. **Does the prohibition in Article 5f(1) also cover the sale of shares of collective investment undertakings, which could be the case for alternative investment funds?**
   Last update: 2 May 2022

Yes, it does.

6. **Is the allocation of free shares by EU banks to their Russian employees as part of variable remuneration schemes prohibited under Article 5f of Council Regulation 833/2014?**
   Last update: 2 May 2022

As part of a compensation scheme, the transaction does not amount to a sale of the securities. As such, it would not fall within the scope of Article 5f.

7. **Do members' shares of mutualist or cooperative banks fall under the scope of Article**

5f of Council Regulation 833/2014?
Last update: 2 May 2022

Insofar as members' shares of mutualist or cooperative banks are not negotiable on capital markets, they do not qualify as 'transferable securities' in the meaning of Article 1(f) of 833/2014. Therefore, they are not within the scope of Article 5f of Council Regulation 833/2014.

8. **Is there sufficient legal basis for refusing to approve a prospectus if an NCA discovers a prohibited relationship and suspects a possible infringement of the sanctions' legislation?**
Last update: 23 May 2022

Issuing a prospectus is a way of making funds and economic resources available. It is considered that an infringement of EU sanctions, in particular pursuant to Council Regulation (EU) No 833/2014, Council Regulation (EC) No 765/2006 and Council Regulation (EU) No 269/2014, can constitute sufficient legal basis for the relevant national competent authority to refuse the approval of a prospectus. It is for the national competent authority, as enforcement authority, to decide whether that decision is appropriate in order to implement the regulations on sanctions.

In the event of a suspicion of infringement, it is considered that the relevant national competent authority should request further information from and ask written confirmation by the issuer of the securities, which are the subject matter of the prospectus, that no infringement of the sanctions' legislation is taking place, in order to be satisfied that it can approve the prospectus.

9. **To what extent are NCAs required to supervise sanctions relating to the indirect flow of funds to sanctioned entities and persons arising from transactions involving an approved prospectus?**
Last update: 23 May 2022

The Council Decision is binding on all Member States and the Council Regulations on sanctions are directly binding in their entirety and directly applicable in all Member States. They apply to all persons subject to the jurisdiction of a Member State. That includes individuals, legal persons incorporated under the law of a Member State, and persons doing business in the EU.

The Council Regulations give effect in EU law to the measures laid down in the Decision. Pursuant to Articles 8 and 9 of Regulation 833/2014, Articles 9 and 9a of Council Regulation (EC) No 765/2006 and Articles 15 and 16 of Council Regulation (EU) No 269/2014, Member States shall lay down the rules on penalties applicable to infringements of the provisions of those Regulations, take all measures necessary to ensure that they are implemented and designate the competent authorities for the purposes of those Regulations.

It is therefore considered that where the relevant competent authorities believe that any infringement or circumvention of the sanctions occurs, they should take appropriate action.

10. In case of factoring financing, is a bank that bought a business invoice from a listed person (the creditor) allowed to receive the payment of the invoice from the EU debtor?

Last update: 14 June 2022

In case of factoring financing, there are 3 potential scenarios to consider:

- The EU bank bought the invoices before the listing: it is possibly acting in good faith, but national competent authorities shall pay attention to a possible risk of circumvention, which is prohibited according to Article 9 of Council Regulation 269/2014 and Article 12 of Council Regulation 833/2014. That would be the case if the bank bought the invoices acting knowingly and intentionally, in tandem with the listed person. Also, if not all formalities of the factoring transaction were concluded before the listing, the EU bank would be prevented from concluding the remaining formalities and consequently from recovering from the debtor
- The EU bank bought the invoices after the listing: there is then a direct breach of Article 2(2) of Council Regulation 269/2014 by the bank and, when it comes to the EU debtor, a higher likelihood of breach (indirectly making funds available to the listed person) or circumvention.
- The Non-EU bank bought the invoices before or after the listing: there is no jurisdiction against the bank if it is not subject to EU sanctions (see jurisdiction clauses). However, where the invoices were bought by the non-EU bank after the listing, the EU debtor would be prevented from paying the non-EU bank if that would make available, directly or indirectly, funds to the listed person.

9. SPECIALISED FINANCIAL MESSAGING SERVICES

RELATED PROVISION: ARTICLE 5h OF COUNCIL REGULATION 833/2014

1. **What are the banks subject to the prohibition to provide specialized financial messaging services ?**
   Last update: 28 February 2023

Article 5h of Council Regulation 833/2014 prohibits the provision of specialised financial messaging services, which are used to exchange financial data, to the legal persons, entities or bodies listed in Annex XIV or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIV.

2. **Some Russian banks are prohibited from using specialized financial messaging services of EU providers (also mentioned as 'the SWIFT prohibition'). Would it qualify as a breach or circumvention of that prohibition if these banks resort to other means of communication to compensate for their decoupling from specialized messaging services network, such as the 'SWIFT' network?**
   Last update: 28 February 2023

Prohibitions contained in EU sanctions Regulations must be complied with by EU operators – both within and outside of the territory of the Union – or by any operator for any business done in whole or in part within the Union. In this particular case, the direct prohibition to provide financial messaging services to those banks is on EU financial messaging service providers or providers operating in the EU, such as S.W.I.F.T. SC (SWIFT), and not on the decoupled Russian banks. This means that transactions for non-sanctioned trade are still allowed with banks disconnected from the SWIFT network ('de-SWIFTed'), not subject to the asset freeze under Council Regulation (EU) 269/2014, if they are relying on other means (i.e. non specialized financial messaging service), such as paper, fax and email, for confirming payment orders.

However, pursuant to Article 12 of Council Regulation 833/2014 any financial messaging service provider required to comply with EU sanctions cannot circumvent this prohibition, (i.e. setting up a system that, under the cover of a formal appearance of legality, enables the relevant bank to avoid the elements of an infringement of the restriction at hand).

3. **Does the prohibition to provide specialised financial messaging services to certain Russian banks also extend to subsidiaries and branches of those banks located outside Russia?**
   Last update: 28 February 2023

Article 5h of Council Regulation 833/2014 prohibits the provision of specialised financial messaging services, which are used to exchange financial data, to the legal persons, entities or bodies listed in Annex XIV or to any legal person, entity or body established in Russia whose

proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIV.

Therefore, banks in Russia whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIV are also covered by this prohibition.
Subsidiaries of those banks in the EU or in other countries outside Russia have separate legal personality from the Russian parent company. Those subsidiaries are considered established under the law of the relevant Member State or third country. Hence they are not subject to the restriction.

Branches of a Russian parent company do not have legal personality on its own and are considered as entities established in Russia. Hence, the prohibition applies to branches of the credit institutions listed in Annex XIV that are located outside Russia. Providers required to comply with EU sanctions should therefore not offer specialised financial messaging service to them.

4. **Are margin calls exempted from the prohibition to provide specialised financial messaging services ?**
   Last update: 28 February 2023

No, there are no exemptions from the prohibition to provide specialised financial messaging services. It is therefore also prohibited to use it for margin call messages exchanged with the Russian banks subject to this prohibition.

10. BANKNOTES

RELATED PROVISION: ARTICLE 5i OF COUNCIL REGULATION 833/2014

1. **Does the ban on supplying banknotes denominated in any official currency of a Member State relate to physical notes only or does it also include transfers via bank accounts?**
   Last update: 20 April 2022

The restrictions introduced on banknotes denominated in any official currency of a Member State concern physical banknotes and do not extend to transfers via bank accounts, as long as these do not fall under other restrictions (e.g. transfers to listed persons or transfers through a listed bank).

2. **How should the exception for personal use from the prohibition to export banknotes denominated in any official currency of a Member State to Russia be interpreted?**
   Last update: 20 April 2022

For the consideration of the term "personal use" as provided in Article 5i, the determining factor is the non-commercial nature. The objective of the prohibition to export banknotes denominated in any official currency of a Member State to Russia is to prevent the Russian Government, its Central Bank and natural or legal persons in Russia to get access to banknotes denominated in any official currency of a Member State. The exception built in the provision, which allows the supply of banknotes denominated in any official currency of a Member State for personal use of natural persons travelling to Russia or members of their immediate families travelling to them, should be interpreted in narrow terms.

The exception should not be used for commercial purposes or reflect a commercial interest. This includes cases where Russian companies are closing down and returning to Russia with cash belonging to the company. As regards employees of companies closing down who return and take their savings with them, there is no reason to allow Russians to repatriate their savings in Russia. It should be underlined that the measure is temporary and linked to the aggression of Ukraine by Russia.

Furthermore, the exception cannot be used to bring cash to acquaintances, friends or parents, because the exception is limited to those travelling. It should cover the necessities of natural persons of members of their family during their trip.

3. **"Are gold, currencies other than any official currency of a Member State, traveller cheques and bank cheques covered by the prohibition in Article 5i?"**
   Last update: 20 April 2022

The measure only concern banknotes denominated in any official currency of a Member State.

Therefore, none of the above are concerned.

4. **Are financial institutions expected to monitor ATM usage, limit increases in card caps for cash withdrawals or restrict card usage?**
   Last update: 20 April 2022

Financial institutions are not expected to change their practices, but to heighten their vigilance and be able to detect sudden increases of banknotes withdrawal/requests.

5. **Does the prohibition to sell, supply, transfer or export banknotes denominated in any official currency of a Member State to Russia only apply to Russian nationals and natural persons with a residence in Russia?**
   Last update: 20 April 2022

No, the prohibition must be complied with by everybody who would be delivering banknotes to Russia or for use in Russia.

6. **Is it necessary to prohibit the withdrawal of banknotes from bank accounts of Russian clients as well as any transactions of cash exchange/sale of banknotes to Russian nationals?**
   Last update: 20 April 2022

No, the prohibition in Article 5i should not be interpreted as prohibiting any withdrawal of banknotes of a Member State from the bank accounts of Russian client, or any transaction of cash exchange/sale of banknotes to Russian nationals. The prohibition shall be assessed on a case-by-case basis, including by taking into account the exemptions as provided for under Article 5i(2) of Council Regulation 833/2014.

7. **Does the prohibition also target subsidiaries of Russian entities, and entities otherwise related to the Russian government within the EU, such as Russian embassies?**
   Last update: 20 April 2022

The prohibition covers subsidiaries of Russian entities to the extent that there are grounds to believe that the banknotes would reach the parent companies or other Russian entities. In complying with the prohibition, EU operators have an obligation of result.

The prohibition in principle covers entities such as Russian embassies in Europe, but Article 5i(b) sets out an exception for the official purposes of these missions.

11. CREDIT RATING

RELATED PROVISION: ARTICLE 5j OF COUNCIL REGULATION 833/2014

1. **Does "credit rating services" cover all type of ratings (including unsolicited and sovereign ratings)?**
   Last update: 28 April 2022

Article 5j(1) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that '*it shall be prohibited as of 15 April 2022 to provide credit rating services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia'*. There is no distinction between different types of ratings. Moreover, Council Decision (CFSP) 2022/430 underlines the prohibition of *'the provision of **any** credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity*'.

According to Regulation (EC) No 1060/2009 (CRA Regulation) 'unsolicited credit ratings' are credit ratings assigned by a credit rating agency other than upon request.

Article 3(1)(v) of the CRA Regulation stipulates that a ''sovereign rating' means: (i) a credit rating where the entity rated is a *State or a regional or local authority of a State*; (ii) a credit rating where the issuer of the debt or financial obligation, debt security or other financial instrument is a *State or a regional or local authority of a State, or a special purpose vehicle of a State or of a regional or local authority*.' Given that the Russian sovereigns covered in the definition have legal personality, they are covered by the prohibition.

The key element for the scope of the sanctions is whether a credit rating service is provided to ***any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia***. Whether this criterion is met requires a factual assessment of the situation, which should take into account Article 12 of Council Regulation (EU) No 833/2014, which provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

2. **Does "credit rating services" cover both surveillance and new issuance activities? Does "credit rating services" cover other non-rating services, i.e. is it more than "credit rating activities" as defined by the CRA Regulation?**
   Last update: 28 April 2022

Article 3(1)(o) of the CRA Regulation provides that '*'credit rating activities' means data and information analysis and the evaluation, approval, issuing and review of credit ratings'*.
In accordance with Annex 1, section B, paragraph 4 of the CRA Regulation, *'a credit rating agency may provide services other than issue of credit ratings (ancillary services). Ancillary*

services are not part of credit rating activities; they comprise market forecasts, estimates of economic trends, pricing analysis and other general data analysis as well as related distribution services'.

Credit rating services are therefore a broader concept than credit rating activities. The former also encompass ancillary services on top of data and information analysis and the evaluation, approval, issuing and review of credit ratings. Given that surveillance and review activities can lead to maintaining, changing or withdrawing a credit rating, they are covered by the concept of credit rating services.

Therefore, also any service encompassing market forecasts, estimates of economic trends, pricing analysis and other general data analysis as well as related distribution services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia is prohibited.

3. **Does "access to any subscription services in relation to credit rating activities" refer to activities of affiliates, e.g. distribution of ratings?**
   Last update: 28 April 2022

Article 2(1) of the CRA Regulation underlines that the CRA Regulation *'applies to credit ratings issued by credit rating agencies registered in the Union and which are disclosed publicly* ***or distributed by subscription.****'* Therefore, subscription is one manner of distributing credit ratings.

Article 5j(2) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that '*it shall be prohibited as of 15 April 2022 to provide access to any subscription services in relation to credit rating activities to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia*.'

Therefore, it is prohibited to give to Russian nationals, to natural persons residing in Russia or to any legal person, entity, body established in Russia, access via subscription to data and information analysis and to the evaluation, approval, issuing and review of credit ratings.

As the scope of the prohibition is not limited to the CRA Regulation, it is applicable to subscription services provided by any legal or natural person and not only persons subject to the CRA Regulation. This therefore not only includes CRAs and their affiliates, but any entity providing access to subscription services in relation to credit rating activities.

4. **Do the sanctions apply to endorsed ratings? If yes, does it mean that the CRA cannot issue a rating from a non-EU entity or that they cannot endorse the rating (i.e. the "endorsement" service is forbidden)?**
   Last update: 28 April 2022

Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/428, does not make a distinction between different ratings and Council Decision (CFSP) 2022/430 underlines the prohibition of *'the provision of **any** credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity*'.

Moreover, Article 4(4) of the CRA Regulation underlines that a credit rating endorsed in accordance with paragraph 3 shall be considered to be a credit rating issued by a credit rating agency established in the Union and registered in accordance with that Regulation.

5. **What entities are covered by the prohibition? Are non-regulated affiliates of CRAs also affected?**
   Last update: 28 April 2022

The scope of Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/428, is not limited to credit rating agencies, but instead focuses on the services to be delivered or the activities to be performed. Therefore, any entities delivering those services or performing the activities are covered, beyond CRAs and their affiliates.

6. **Article 5j of regulation 833/2014 does not distinguish between intra group and extra-group rating services. Could the rating services provided within a group (i.e. Mother Company in the European Union providing rating models for its subsidiary in Russia) fall under the restrictions?**
   Last update: 31 May 2022

IRB models which fall within the scope of models as defined under Article 142 of Regulation (EU) No 575/2013 (Capital Requirements Regulation) and which are shared intragroup are out of scope of Article 5j prohibition as they do not consist of a provision of a rating service.

7. **Does the reference in Article 5j to credit rating services cover the provision of services such as scoring services? Example: a credit reference agency or credit bureau that generates a score about a Russian national or natural person.**
   Last update: 1 June 2022

The scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 does not mention credit rating agencies, but focuses on the services to be delivered or the activities to be performed.

Article 3(1)(a) of the CRA Regulation defines ‘credit rating’ as an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories.

Article 3(1)(y) of the CRA Regulation defines credit score as ‘a measure of creditworthiness derived from summarising and expressing data based only on a pre-established statistical system or model, without any additional substantial rating-specific analytical input from a rating analyst’.

Therefore, any entity delivering those services or performing the activities is covered. In turn, that means the provision of such a service or the performance of such activity to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia within the meaning of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 is covered.

Whether the scoring services as to the creditworthiness or financial standing of Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia are credit rating services or subscription services in relation to credit rating activities is a factual question. The reply must take into account Article 12 of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428, which provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

8. **Does the reference in Article 5j to credit rating services provided to any Russian national or natural person or any legal person, entity or body established in Russia include when the rating is performed on (as opposed to directly provided to) those subjects?**
   Last update: 1 June 2022

Article 5j(1) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that ‘it shall be prohibited as of 15 April 2022 to provide credit rating services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia’. In addition, Council Decision (CFSP) 2022/430 underlines the prohibition ‘of the provision of any credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity’.

Credit rating services should be understood as including credit rating activities. Article 3(1)(o) of the CRA Regulation provides that ‘‘credit rating activities’ means data and information analysis and the evaluation, approval, issuing and review of credit ratings;’.

Thus, providing ratings on Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia involves the analysis, evaluation, approval and issuing of a credit rating and falls within the scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 and therefore is prohibited.

9. **Does the reference in Article 5j to credit rating services provided to any Russian national or natural person or any legal person, entity or body established in Russia include when the rating is performed on those subjects and the service is then provided to a third party (e.g., a bank)? Example: a credit reference agency that generates a score about a Russian national or natural person, which is delivered to a bank in the context of a contractual relationship so that the said bank can better assess the creditworthiness of the Russian national or natural person.**
   Last update: 1 June 2022

The scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 focuses on the services to be delivered or the activities to be performed. Therefore, any entities delivering those services or performing the activities are covered, regardless of who they are provided to.

10. **Does the reference in Article 5j to a Russian national or natural person residing in Russia include where the said person is availing of a temporary residence permit outside of Russia (e.g., in an EU Member State) or simply has property in a Member State where he/she resides for a limited period of time? Example: Russian students, foreign workers, and tourists with temporary residence outside of Russia or Russians taking their vacations at their homes at an EU Member State.**
    Last update: 1 June 2022

In accordance with Article 5j(3), prohibitions related to credit rating services and related subscription services do not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.

12. INSURANCE AND REINSURANCE

RELATED PROVISION: ARTICLE 3c; ARTICLE 3m; ARTICLE 3n OF COUNCIL REGULATION 833/2014

1. **A Russian insurance company insures an aircraft or an engine of an EU policy holder and gets reinsurance from an EU reinsurer. Is the reinsurance provided by the EU reinsurer to the Russian insurer prohibited under Article 3c(2)?**
   Last update: 3 May 2022

Articles 3c(2) prohibits an EU reinsurance company to provide its services to a Russian person or entity. The EU operators affected must take the necessary measures in light of this situation.

2. **Do the prohibitions in Article 3c(2) extend to the provision of insurance and reinsurance in respect of coverage of a non-Russian airline which conducts flights into and out of Russia?**
   Last update: 3 May 2022

Article 3(c)(2) contains a specific prohibition to provide re/insurance in relation to an aircraft. This is different from the prohibitions on financial assistance in Article 3c(4) as well as Articles 2 and 2a. Insurance in relation to a sale, supply, transfer or export is covered under the prohibition in article 3c(4), since insurance/re-insurance are part of the notion of "financing and financial assistance" as per Art 1(o).

The provision of re/insurance in the context of an international flight in and out of Russia by a non-Russian airline which does not have a Russian re/insurance is not covered by the prohibition as it is not for 'use in Russia' but part of the normal international services provided by an airline. The wording 'for use in Russia' is a standard formulation used to avoid the circumvention of the measures as it ensures that products and services sold/supplied/provided to third country persons, but to be used in the country subject to sanctions, are also prohibited.

3. **Can these prohibitions affect the provision of insurance and reinsurance by EU insurers/reinsurers to the benefit of other EU parties?**
   Last update: 3 May 2022

Nothing in Council Regulation 833/2014 prohibits the provision of insurance and reinsurance by EU insurers/reinsurers to the benefit of other EU parties, even after 26 February 2022, as long as the goods and technology in Annex XI under insurance/reinsurance are not intended for a person in Russia or for use in Russia.

4. **When items listed under Annex XI of Council Regulation 833/2014 are being retained in Russia against the will of their non-Russian owner, is it prohibited to provide insurance and reinsurance for them, or to execute an insurance settlement with Russian insurers?**
   Last update: 21 December 2022

Insurance and reinsurance of the goods and technology in Annex XI are not "for a person in Russia or for use in Russia", where it is provided for the benefit of the non-Russian owner of those goods and not for the benefit of the actual user or operator of the goods. This applies also when the items remain in Russia against the will of their non-Russian owner and despite the latter's demand for their return (including 'lost aircraft').

In such case, it is not prohibited for the non-Russian owner of the items listed in Annex XI to execute an insurance settlement with a Russian entity leading to the payment of the market value of the lost aircraft by the latter, provided that: (i) the lost aircraft were in Russia before the entry into force of Article 3c of Council Regulation 833/2014, on the basis of a contract predating such entry into force; (ii) the subscription of the applicable insurance policy predates such entry into force; (iii) the owner promptly requested the return of the items after the entry into force of Article 3c and did anything reasonably possible to repossess the relevant items but was unsuccessful; (iv) no additional goods prohibited by Article 3c or any other sanctions provisions will be made available to a natural or legal person, entity or body in Russia or for use in Russia; and (v) no sanctioned person is involved in, or may draw any benefit from, the execution of the settlement.

5. **Do these prohibitions extend to the provision of insurance or reinsurance of any parts or components for the purposes of conducting repairs to an aircraft, which conducts flights, if such repair takes place in Russia?**
   Last update: 3 May 2022

Where the prohibitions applies to the re/insurance of goods and technology, this includes parts or components that fall under the scope of Annex XI.
The provision of re/insurance in the context of an international flight in and out of Russia by a non-Russian airline which does not have a Russian re/insurance is not covered by the prohibition as it is not for 'use in Russia' but part of the normal international services provided by an airline. This is true also for the re/insurance of any parts or components for the purposes of conducting repairs to an aircraft, where a non-Russian airline conducts flights into and out of Russia.

6. **Do these prohibitions extend to an EU company sending an EU vessel to load licit cargo into a Russian port (e.g., normal goods, humanitarian goods, food)?**
   Last update: 3 May 2022

The prohibitions in Article 3c apply to insurance and reinsurance related to aircrafts (see Annex XI). The prohibitions in Articles 2 and 2a do not prevent airplanes, vessels and trucks from leaving or returning to the Union as part of normal commercial activities, as such movement does not constitute a "sale, supply, transfer or export". The prohibition on financing and financial assistance in Articles 2 and 2a cover insurance activities (see Article 1(o)) but only in so far as they relate to the sale, supply, transfer or export of the listed goods.

7. **Do the prohibitions in Article 3c also apply to the insurance of transhipments of aircrafts and aircraft parts in EU territorial waters and airspace?**
   Last update: 3 May 2022

Insurance in relation to a sale, supply, transfer or export is covered under the prohibition in Article 3c(4), since insurance/re-insurance are part of the notion of "financing and financial assistance" as per Article 1(o). "Transfer" is a broader concept than "transport", covering a wide range of operations, not only the movement of goods through customs controls, but also the transport of goods, including the loading, transport, and trans-shipment of goods. Accordingly, the insurance of a transit via the EU territory of goods subject to sanctions is not allowed.

8. **How does the wind down period in Article 3c paragraph 5 pertain to insurance services?**
   Last update: 3 May 2022

The wind down provision applies to subsections 1 and 4 only. Provided an insurance contract was concluded before 26 February 2022, insurance services for the sale, supply, transfer or export of goods and technologies listed in Annex XI are not subject to restrictions until 28 March 2022. On the other hand, the prohibition of insurance and reinsurance in subsection 2 applies as from 26 February 2022.

9. **Council Regulation (EU) 2022/328 amended Regulation (EU) 833/2014 and provided a definition of "financial assistance" in Article 1(o), does this apply to all measures in respect to insurance?**
   Last update: 3 May 2022

Yes, the definition of "financing or financial assistance" contained in Article 1(o) applies throughout Regulation (EU) 833/2014.

10. **Article 2 prohibits the provision of financial assistance for the sale, supply, transfer or export of dual-use goods and technology, unless authorised by the national competent authority. By whom the authorisation should be requested: the exporter (i.e. the insured), the insurer or both?**
Last update: 3 May 2022

The authorisation should be requested by the insurer after consulting the exporter.
For more information, you can consult the dedicated frequently asked questions on financial assistance and exports related matters.

11. **Council Regulation (EU) 269/2014 contains individual financial measures against a number of persons and entities. Should EU re/insurance operators cease to provide insurance services to these persons and entities? How should they proceed?**
Last update: 26 August 2022

Persons and entities listed under Regulation 269/2014 are subject to financial sanctions that consist of an asset freeze and a prohibition to make funds and economic resources available to them. They are listed in Annex I to the Regulation. These sanctions come into force from the date the person or entity is listed. This is distinct from the sectorial measures provided for in Regulation (EU) 833/2014, which contains certain prohibitions regarding insurance.

The prohibition to make funds and economic resources available to a listed person or entity means that an EU operator cannot put any funds or economic resources at the disposal of a listed person, directly or indirectly, whether by gift, sale, barter or any other means, including the return of the listed person's own resources. The consequence of a listing is that the provision of services to the listed person, including insurance, should cease. It is up to the EU operator to take the measures most appropriate in light of the situation.

Exceptionally, an EU operator could proceed with a payment to the frozen account of a listed person provided such funds are also frozen and provided the payment is due under a contract concluded before the date at which the person was listed (See Article 7).

It should also be noted that, as a derogation from the restrictive measures, Article 4(1)(a) of Regulation 269/2014 enables the NCA to allow the release of frozen funds, or the making available of certain funds or economic resources to the listed person, if these funds/resources are necessary to satisfy the basic needs of listed persons, including insurance premiums.

12. **Is it allowed to reinsure the export receivables on the basis of export/insurance contracts, concluded before 26 February 2022 with large companies?**
Last update: 1 June 2022

Article 2e paragraph 1(a) exempts all binding financial or financial assistance commitments

established prior to 26 February 2022. Provided that the binding commitment has been established prior to that date, it is allowed to provide public financing or financial assistance for trade with, or investment in, Russia, irrespective of the dimension of the company.

13. Can an EU insurer continue to provide insurance to a vessel carrying Russian oil?
Last update: 30 June 2023

After 5 December 2022 for crude oil and after 5 February 2023 for petroleum products, EU operators can only provide insurance for the maritime transport of goods set out in Annex XXV to third countries, if such goods were purchased at or below the price cap, as set out in Article 3n.

14. Does the prohibition to provide technical assistance, financing and financial assistance above the price cap set out in Article 3n apply to all modes of transport of oil to third states?
Last update: 30 June 2023

No, it only applies to maritime transport and does not extend to pipeline transport. This intention is clear from recital 15 of Council Regulation (EU) 2022/879 and the reference to the prohibition to provide maritime transport, including through ship-to-ship transfers, insurance or financing or financial assistance to such transport if carried out above the price cap, is included in paragraph 1 and 4 of Article 3n.

15. Can an EU entity provide insurance or reinsurance for a non-EU or EU vessel carrying Russian oil? I.e. could an Indian ship carrying crude from Russia to India get insurance from an EU firm?
Last update: 30 June 2023

After 5 December 2022 for crude oil and after 5 February 2023 for petroleum products, EU insurers or reinsurers can provide services in such a situation only if such goods were purchased at or below the price cap.

16. Are there any notification requirements which apply to insurers or reinsurers under Article 3m and 3n?
Last update: 30 June 2023

No, the notification requirements, which are set out in Article 3m do not apply to insurers/reinsurers. There are no notification requirements which apply to insurers or reinsurers in Article 3n.

13. REPORTING ON OUTGOING TRANSFERS

RELATED ARTICLE: ARTICLE 5r OF COUNCIL REGULATION 833/2014

1. What is the purpose of this measure?

Last update: 12 April 2024

The new requirement will give national competent authorities (NCAs) better visibility on the flow of funds related to Russian-owned entities out of the EU, without jeopardising the activities of entities that are (partly) Russian-owned and operating legitimately in the EU. This will allow NCAs to assess better whether certain types of transfers pose a risk of violation of Russia-related sanctions and contribute to mapping out Russia's sources of revenue.

This measure sets out a reporting obligation that applies to:

- [Paragraph 1:] legal persons, entities and bodies established in the Union whose proprietary rights are directly or indirectly owned for more than 40 % by a legal person, entity or body established in Russia; a Russian national; or a natural person residing in Russia.

- [Paragraph 2:] credit and financial institutions.

2. Does Article 5r cover only profit repatriation, or all types of transfers? Does it block/prevent profit repatriation?

Last update: 12 April 2024

The new measure covers all types of transfers leaving the EU/Member States' jurisdiction to go outside of it, made by the relevant Russian-owned companies, including for the purpose of profit repatriation. It is not meant to stop profit repatriation but to identify flows of funds, including profit repatriation.

3. Does Article 5r concern all types of funds?

Last update: 12 April 2024

The measure includes all types of funds, regardless of the currency. In accordance with Article 1(zd), "funds" means financial assets and benefits of every kind, including, but not limited to:

(i) cash, cheques, claims on money, drafts, money orders and other payment instruments;

(ii) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;

(iii) publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;

(iv) interest, dividends or other income on or value accruing from or generated by assets;

(v) credit, right of set-off, guarantees, performance bonds or other financial commitments;

(vi) letters of credit, bills of lading, bills of sale; and

(vii) documents showing evidence of an interest in funds or financial resources.

4. Does Article 5r cover transfers of funds held in a branch of an EU credit or financial institution or an EU operator located outside the EU?

Last update: 12 April 2024

Yes, Article 5r covers transfers of funds held in a branch of an EU credit or financial institution or an EU operator located outside the EU. The reporting obligations in Article 5r are binding on every legal person, entity or body falling under the scope of Article 13 of Council Regulation 833/2014 (EU operator). First and foremost, this obligation will be relevant for entities incorporated under the law of a Member State and also located in a Member State. However, branches of such entities and institutions do not have a separate legal personality of their own, and thus the responsibility for their actions falls onto their EU main entity or institution. In addition, from an accounting consolidation perspective, the funds 'held' by the third country branch are generally considered to be part of the balance sheet of the main credit or financial institution or operator in the EU.

5. Does Article 5r cover transfers of funds held in a subsidiary of an EU bank or an EU operator located outside the EU?

Last update: 12 April 2024

No, Article 5r would not cover transfers of funds held in a subsidiary of an EU credit or financial institution or an EU operator located outside the EU. However, Article 12 on circumvention will be relevant where subsidiaries outside of the EU are used by the EU entities referred to in Article 5r, including banking and financial institutions, to avoid the application of that Article, for example where the consolidation of accounts mentioned in Question 4 or of other elements allowing to conclude that the subsidiary acts "as one" with the parent EU entity.

6. What does the term "indirect transfer of funds out of the EU" mean?

Last update: 12 April 2024

A direct transfer of funds goes from an entity established in the EU to a recipient outside the EU. An indirect transfer of funds would go, for instance, from an entity established in the EU, through one or several intermediaries within the EU, and then to a recipient outside the EU.

7. Is there a minimum threshold amount that should be considered when cumulative operations are involved?

Last update: 12 April 2024

The obligation to report applies for transfers of an amount exceeding, in sum, 100 000 EUR or more made in one or several operations by the same party subject to the relevant reporting requirement. There is no minimum threshold for individual operations that are part of the sum total of all relevant transfers. The cumulative amount of 100 000 EUR applies within the reporting period, which is each quarter, as indicated in paragraph 1 and each semester as indicated in paragraph 2.

8. Which period should the first reporting cover? When should the reports be submitted?

Last update: 12 April 2024

The first reporting by the obliged operators under paragraph 1 of Article 5r, should cover the period between 1 January and 31 March 2024. The obligation to submit it, however, does not kick in until 1 May 2024. This way, the Regulation allows more time to obliged entities to make this first reporting, to facilitate compliance with this new obligation. Starting with the second quarter (Q2) of 2024, reporting should be done two weeks after the end of each quarter, eg for Q2 by 15 July; for Q3 by 15 October; for Q4 by 15 January 2025, and for Q1 2025 by 15 April 2025.

The obligation to report for credit and financial institutions initiating the funds transfers subject to paragraph 2 of Article 5r kicks in on 1 July, hence the day after the end of the first semester. Therefore, the first report should be submitted by 15 July 2024; and for S2 by 15 January 2025.

9. Should reporting under Article 5r take into account aggregate ownership?

Last update: 12 April 2024

Yes, reporting should take aggregate ownership into account. The purpose of Article 5r is to capture entities that are owned to more than 40% by Russian persons. Article 5r paragraph 1(a)-(c) refers to: *"(a) a legal person, entity or body established in Russia; (b) a Russian national, or; (c) a natural person residing in Russia.*" This should be read as a cumulative 'or', since the provision does not indicate that it should be the ownership of a **single** legal person etc.

10. Which criteria should be applied to determine indirect ownership? Does this include control?

Last update: 12 April 2024

Indirect ownership can be understood as not having nominal ownership over the entity, but rather *via* a chain of intermediaries.

Indirect ownership should not be confused with control, which is established as a result of a factual assessment, taking into account all relevant circumstances. Therefore, EU legal entities, which meet one or more of the three 40% direct / indirect ownership criteria, fall within the scope of application of Article 5r. The criterion of control is not relevant for the purposes of Article 5r.

11. Do associations and foundations fall within the scope of Article 5r?

Last update: 12 April 2024

The obligation applies to legal persons, entities and bodies. NCAs should apply the usual definition they apply to these terms. If more than 40% of an entity's property rights are ultimately owned by persons falling under Article 5r paragraph 1 (a)–(c), the relevant entity and the relevant institution must report.

12. How shall credit and financial institutions identify a legal person, entity or body referred to in Article 5r paragraph 1 which is owned (for more than 40%) by the relevant Russian party?

Last update: 12 April 2024

Credit and financial institutions can use for this purpose the client data they have stored in accordance with general legal KYC requirements. If those requirements do not include all of the information referred to in Article 5r para. 1 yet, such information needs to be collected on the basis of the relevant institutions' regular client review.

13. Does Article 5r paragraph 1 (b) of Council Regulation 833/2014 cover also Russian nationals with a dual citizenship (including EU citizens)?

Last update: 12 April 2024

Yes, it does.

14. Will the Commission clarify the expected content of the reporting?

Last update: 12 April 2024

The Commission has published a reporting template to be used by the entities concerned and by EU banks. The template can be accessed here. This template is a recommendation, the entities concerned and EU banks are not obliged to use this specific template.

15. Who must report – on Group level or per EU legal entity?

Last update: 12 April 2024

The reporting obligation under Article 5r paragraph 2 is on those credit and financial institutions that have initiated the relevant transfers for the legal persons entities and bodies referred to in paragraph 1. At the same time, the reporting needs to be addressed to the competent authority of the Member State where the institution is located. In other words, the reporting has to be performed on the legal entity level.

16. Do credit and financial institutions referred to in Article 5r paragraph 2 need to report transfers covered by this measure if the entity referred to in Article 5r paragraph 1 has already reported?

Last update: 12 April 2024

Yes, they do.

D. TRADE AND CUSTOMS

1. CUSTOMS-RELATED MATTERS

RELATED PROVISION: COUNCIL REGULATION 833/2014

1. **Where can I find the list of the EU sanctions against the Russian Federation, the Republic of Belarus and non-government controlled areas of Ukraine?**
   Last update: 7 February 2023

Please refer to the EU sanctions map: www.sanctionsmap.eu.
Below you will find the list (last update 7 February 2023)

Russia

- Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine – consolidated basic legal act (04/12/2022)
- Council Decision 2014/512/CFSP of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine – consolidated basic legal act (04/12/2022)
- 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 – amendment not yet in the consolidated basic legal act
- Council Decision (CFSP) 2022/2478 of 16 December 2022 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine - amendment not yet included in the consolidated basic legal act

Belarus

- Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in respect of Belarus – consolidated basic legal act (20/07/2022)
- Council Decision 2012/642/CFSP of 18 May 2006 concerning restrictive measures in view of the situation in Belarus – consolidated basic legal act (20/07/2022)

Restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine

- Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine – consolidated basic legal act (07/10/2022)

- Council Decision (CFSP) 2022/266 of 23 February 2022 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine – consolidated basic legal act

(07/10/2022)

Restrictive measures in response to the illegal annexation of Crimea and Sevastopol

- Council Decision 2014/386/CFSP of 23 June 2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol – consolidated basic legal act (22/06/2022)
- Council Regulation (EU) No 692/2014 of 23 June 2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol – consolidated basic legal act (06/10/2022)

Restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine

- Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – consolidated basic legal act (14/11/2022)
- Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine – consolidated basic legal act (14/11/2022)

Misappropriation of state funds of Ukraine (restrictive measures on the freezing and recovery of assets of persons identified as responsible for the misappropriation of Ukrainian State funds and persons responsible for human rights violations)

- Council Decision 2014/119/CFSP of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine – consolidated basic legal act (05/03/2021)
  Council Regulation (EU) No 208/2014 of 5 March 2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine – consolidated basic legal act (13/09/2022)

2. **Are there any specific instructions, guidance, and notices to importers?**
   Last update: 7 February 2023

The following notices have been published:

- Notice to importers: Imports of products into the Union from the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine, 2022/C 458/02, https://europa.eu/!3fnkVn
- Notice to importers: Imports of products into the Union under the EU-Ukraine Association Agreement from the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine, 2022/C 87 I/01
  https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2022:087I:FULL&from=EN
- Notice (2022/C 93 I/01) to importers on Imports into the Union of goods originating in the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine You

will find the https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0228%2805%29Notice to economic operators, importers and exporters, 2022/C 145 I/01, https://europa.eu/!rKWHmb

- See also the:
  - Commission Communication: Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders 2022/C 104 I/01, https://europa.eu/!pMtg4m
  - Commission Guidance Note on the implementation of certain provisions of Regulation (EU) No 833/2014, https://europa.eu/!g3dHJK

The updated list of guidance, FAQs and notices are available here: Restrictive measures (sanctions) | European Commission (europa.eu).

3. **Are there any border crossing points (customs offices) that are completely closed between the EU and Russia?**
   Last update: 1 June 2022

Please note the reply below may change daily.

Estonia

No closed Border Crossing Points (Customs Control Points) on the Estonian border with Russia.

Finland

No closed Border Crossing Points (Customs Control Points) on the Finnish border with Russia.

Latvia

No closed Border Crossing Points (Customs Control Points) on the Latvian border with Russia and Belarus.

Lithuania

LT/RU border: Ramoniškiai – Pograničnyj, Nida-Morskoje, Nida-Rybačij, Jurbarkas-Sovetskas, Rusnė-Sovetskas

LT/BY border: Adutiškis-Moldevičiai, Krakūnai-Geranainys, Eišiškės-Dotiškės, Rakai-Petiulevcai, Norviliškės-Pickūnai, Latežeris-Pariečė, **Švendubrė-Privalka**

Poland

PL/RU border: Gronowo, Gołdap

PL/BY border: Kuźnica, Połowce, Slawatycze

Useful links - on-line border information, incl. waiting time:

POLAND

https://granica.gov.pl/index.php?v=en

HUNGARY

Frontpage | A Magyar Rendőrség hivatalos honlapja (police.hu)

https://www.police.hu/hu/hirek-es-informaciok/hatarinfo?field_hat_rszakasz_value=ukr%C3%A1n+hat%C3%A1rszakasz

SLOVAK REPUBLIC

https://www-financnasprava-sk.translate.goog/sk/infoservis/hranicne-priechody?_x_tr_sl=sk&_x_tr_tl=en&_x_tr_hl=en-US&_x_tr_pto=wapp

ROMANIA

https://www.politiadefrontiera.ro/en/traficonline

MOLDOVA

https://customs.gov.md/en/traffic

4. **What does the "ex" mean before some CN codes in the annexes of Regulation 833/2014?**
   Last update: 26 July 2022

When a CN code is preceded by an "ex", it means that not all goods under the relevant CN code are covered by the prohibition but only a subset, which can be those corresponding to the description that appears in the table, in the title or sub-title of the relevant annex or in the relevant article in the Regulation. For example, in Annex X, for CN Code 8419 89 10 "Cooling towers and similar plant for direct cooling (without a separating wall) by means of recirculated water", only the goods falling under the description in the table as "Alkylation and isomerization units" are subject to the restrictions.

5. **How should Member States' authorities treat companies established in Russia when these carry out goods transiting between mainland Russia and the Kaliningrad region?**
Last update: 13 July 2022

Please see Q&A 5 in the FAQs on "road transport": transit of sanctioned goods by road is not allowed.

However, no such specific regime applies to rail transport on the same route, without prejudice to Member States' obligation to perform effective controls as set out below, in conformity with EU law.

The transit of sanctioned military and dual use goods and technology, as defined in Regulation (EU) 2021/821, is prohibited in any event.

Member States must also ensure that sanctioned goods that have illegally arrived in any part of Russia cannot be transported *onwards* via the EU customs territory.

GOODS ENTERING INTO THE UNION

6. **How importation of personal belongings of Ukrainians entering the Union, including pets and cash is cleared by customs authorities?**
Last update: 24 March 2022

Articles 4 to 11 of Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty can be used for processing the personal property of displaced persons from Ukraine. According to Article 11 of this 7 Regulation, the competent authorities may derogate from certain conditions limiting duty relief when a person has to transfer his normal place of residence from a third country to the customs territory of the Community as a result of exceptional political circumstances. As a consequence, personal belongings can be brought by displaced persons from Ukraine into the Union without any customs duties being applied. Customs declarations could also take a simplified form, including oral declaration.

Similarly, Articles 4 to 11 of Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods can be used for the processing of the personal property of displaced persons from Ukraine. According to Article 11 of this Directive, the competent authorities may derogate from certain conditions limiting VAT exemption when a person has to transfer his normal place of residence from a third country to a Member State of the Community as a result of exceptional political circumstances. As a consequence, personal belongings can be brought by displaced persons from Ukraine into the Union without any VAT

on importation being applied.

Article 32 of Regulation (EU) 576/2013 on the non-commercial movement of pet animals can be used for facilitating the entry of pet animals travelling with their owners from Ukraine. To ease this process and by way of derogation from the conditions provided for non-commercial movements of pet animals, Member States may authorise, in exceptional situations, the non-commercial movement into their territory of pet animals which do not comply with the said conditions under specific permit arrangements. Veterinary competent authorities in all Member States were already informed about this possibility and started to implement such arrangements at borders.

In the case of cash (currency, bearer negotiable instrument or commodities used as highly liquid stores of value, such as gold), the provisions on cash controls laid down in Regulation (EU) 2018/1672 would need to be applied to the extent possible under the specific circumstances. This could be done by declaring the cash carried of a value of EUR 10 000 or more, either via an incomplete cash declaration or simply via a self-declaration containing the following information: - Carrier of the cash with contact details, and - Amount of cash.
Nevertheless, at the point of entry into the Union, officers in charge of external border controls enquire and check if a person is in possession of a firearm.
You can find additional information here: Communication providing operational guidelines external border management EU-Ukraine borders_en_1.pdf

7. **How to handle postal packages arriving from UA to the EU, containing the personal belongings of refugees being already in the EU, especially when the value is above 45 EUR?**
   Last update: 1 June 2022

Personal belongings of war refugees can be transferred to the customs territory of the Union without any customs duties and without usual limiting conditions being applied. Under the light of the provision of Article 7 of Regulation (EC) No 1186/2009 , duty relief for personal property shall be granted within 12 months from the date of establishment of place of residence of the refugees in question. Furthermore, the personal property may be released for free circulation in several separate consignments. The relief from import duty for personal belongings in accordance with Articles 4 to 11 of Regulation (EC) No 1186/2009 and the additional information already published is not limited to the way how the personal belongings are transported.

8. **Does the import prohibition on wood and wood products also include wood products which are used exclusively for packaging or dispatch/transport purposes and are not the subject of commercial transactions, e.g. wooden pallets, wooden packaging boxes, used wooden cable drums?**

Last update: 24 March 2022

The prohibitions apply to the product declared in customs for the considered procedure. For example, if copper cables coiled on wood spools are declared for release for free circulation, they are declared as copper cables and the prohibition on wood products does not apply. This is because the commercial object of the movement is the cables, not the spools. However, if empty wood spools are declared for release for free circulation, they are the object of the movement and therefore submitted to the prohibition.

9. **Please explain the implementation of the sanctions on goods which, under the previous prohibitions could be imported and were dispatched from Belarus prior to the entry into force of the sanctions under Regulation 2022/355**
   Last update: 24 March 2022

Unless a sunset clause applies under the relevant prohibition (allowing the execution of contracts concluded before the entry into force of the sanctions for a prescribed period after that entry into force), the sanctions provided for in the above Regulation shall apply for goods that at the time of entry into force of the Regulation:

- had been dispatched from Belarus for carriage into the EU and were en route
- were under temporary storage in the customs territory of the EU

However, if the goods have been released for free circulation before the entry into force of Regulation 2022/355, the sanctions do not apply.
Where a sunset clause applies, the same treatment will be applicable to goods under sanctions as of the date of expiry of the wind-down period.

10. **What is the legislation applicable on customs and taxation in particular, on horses that are evacuated from the war in Ukraine?**
    Last update: 24 March 2022

Animals can be declared for temporary admission in the Union as long as they fulfil the conditions mentioned in the relevant legislation, especially Article 251(2) of the Union Customs Code[8] (UCC), e.g. they stay in the customs territory of the Union for a certain period of time without undergoing any change except normal depreciation to the use made of them. The time limit of the customs procedure cannot be shorter than 12 months (Article 237(2) UCC-DA[9]), which does not mean that the horses must stay at least 12 months in the EU. This time limit

[8] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.
[9] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

cannot exceed 24 months, but it can be extended in exceptional circumstances; in consequence the total period of the customs procedure cannot be longer than 10 years (paragraphs 2 to 4 of Article 251 UCC).
If the horses are in temporary admission they may be covered by an ATA carnet, but they can also be covered by a standard customs declaration.
The importer can be established in the customs territory of the Union and the horses would benefit from relief from import duty (Article 223 UCC-DA).
In the case of temporary importation arrangements, Article 71(1) of the VAT Directive[10] could apply, meaning that the chargeable event will only take place when the horses cease to be covered by those arrangements. In other words, as long as the horses remain under the temporary importation arrangements, no VAT is due.

11. Can I import under the preferences of the EU-Ukraine Association Agreement from the regions of Donetsk and Luhansk?
Last update: 7 February 2023

For the most recent information on this topic, please see Question no. 2 in the "Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts" FAQ.

12. We would like to ask the Commission whether the entry into a free zone of goods related to persons/entities listed in annex I of Council Regulation (EU) No 269/2014 is still possible and if so, whether there are special circumstances or conditions linked to such entry, in light of the sanctions?
Last update: 1 June 2022

The entry into a free zone of goods related to persons/entities listed in Annex I of Council Regulation (EU) 269/2014 entails a movement of such goods, which for example once in the free zone can be sold to another person without moving them and thus would run counter to the freezing of economic resources. Therefore, the entry of such goods in a free zone is not allowed as it would lead to breach of Article 2 and Article 1(d) and (e) of that Regulation. This includes the goods related to persons/entities listed in Annex I of Council Regulation (EU) 269/2014, as well as its subsequent amendments.

[10] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

13. **Until the adoption of the 11th sanctions package, Article 3j of Regulation (EU) No 833/2014 prohibited to purchase, import, or transfer, directly or indirectly, coal and other solid fossil fuels, as listed in Annex XXII into the Union if they originate in Russia or are exported from Russia. Have these restrictions been lifted? Does this prohibition applies to all CN-codes previously mentioned in the Annex XXII? Regardless, if: a) the products are coal-based or not? b) the products are solid or not?**

Last update: 26 July 2023

As explained in recital 51 of Council Regulation 1214/2023 of 23 June 2023 ("11th sanctions package"), Article 3j and Annex XXII were deleted because the prohibition concerning coal imports is covered by Article 3i and Annex XXI of Regulation (EU) No 833/2014. The prohibition is therefore still in force, though under a different legal provision. Additionally, the deletion of the transitional period under Article 3j which had already expired is not intended to have any legal effects on past or ongoing contracts or on the applicability of those transition periods.

The product scope subject to the restrictions previously laid down in Article 3j of **Regulation (EU) No 833/2014** were defined in the former Annex XXII and applied to all CN-codes mentioned in the Annex. They are now defined in Annex XXI.
"Coal and other solid fossil fuels" in the former Article 3j was only a title, a denomination to distinguish a specific domain of the bans. It did not define, limit or expand the product scope defined in the former Annex XXII.
Similar examples are:

- The title of the former Annex XXII was "Coal products" but this does not limit the ban to products obtained from coal (ex: peat, lignite);
- Tar is not a fuel by itself and is not always a coal product, nor is it a solid fossil. Yet, 2706 "Tar distilled from coal, from lignite or from peat..." was fully included in the product scope of the former article 3j and is now covered by the scope of article 3i.

GOODS MOVING FROM THE UNION

14. **When presenting and declaring such consignments with humanitarian aid at the border, are the donation declaration and the transport document sufficient for customs office or should the carrier still have on him a detailed list with a minimum of information of the goods: description, quantity, value?**
Last update: 25 April 2022

The Union Customs Code is silent about the need to request any accompanying documents for oral export declarations. However, the customs authorities may perform the customs controls they consider necessary until they are taken out of the customs territory of the Union (see Articles 46(1) and 267(1) UCC). Therefore, the customs officials at the border, depending on the risk assessment, may not need to require any specific document on a systematic basis, but they have always the possibility to do some documentary controls if they choose to do so. Any documents are valid in that respect.

15. **How customs should provide a proof of exit of goods for the purposes of tax exemption or tax deduction, e.g. in case where a company would like to send its own goods (produced or marketed by that company) to Ukraine as donation? Is an oral declaration sufficient or would it be necessary that a written customs declaration is submitted in any case for these consignments?**
Last update: 25 April 2022

The supply of goods dispatched or transported to a destination outside the EU by or on behalf of the vendor is exempted from VAT in accordance with Article 146(1)(a) of the Council Directive 2006/112/EC (VAT Directive). The conditions to benefit from such VAT exemption at export and the means that can be accepted as evidence for the exit of the goods, are defined in the national VAT legislation. It is likely that an oral declaration in itself is not sufficient and the customs office competent for the place where the goods leave the customs territory of the EU needs to certify the exit of the goods.

16. **Should containers coming from third countries that travel to Russia through an EU port be checked just as containers originating from the EU?**
Last update: 24 March 2022

Yes, containers coming from 3rd countries that travel to Russia through an EU port be should checked. The Article 2 of the Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine indicates that the sanctions apply to goods "*whether or not originating in the Union*".

17. **What should be done with ships under the flag of a 3rd state (e.g. South Africa), that travel to Russia via an EU port? Should these containers be checked as for EU originating containers?**
Last update: 24 March 2022

The flag of the vessel does not make a difference. The rule is: Any consignment of goods, coming from third country and destined to Russia (directly or indirectly), has to be subject to a risk analysis and controls have to be carried out, where appropriate.

18. **What is the rule for containers for which our customs has given their green light before the entry into force of the regulations imposing sanctions, but that have not yet left the port?**
Last update: 24 March 2022

The sanctions apply whilst the goods are under customs supervision, i.e. they are not released for exit. Art. 333(1) Union Customs Code Implementing Act goes even further by stating: "*1. Once goods have been released for exit, the customs office of exit shall supervise them until they are taken out of the customs territory of the Union*". i.e. basically the goods remain under customs supervision as long as they are still in the port.

If the goods are still under customs supervision (leaving for transit, export, etc.), customs can carry out any control or take any measure they deem necessary to rectify a situation that may have changed in the meantime (goods concerned, conditions of the prohibition/sanction etc.).

19. **What is the effect of these sanctions on goods originating from a non-EU jurisdiction that are transiting through a Member State with Russia as final destination? Do the measures apply for transhipments via an EU country?**
Last update: 24 March 2022

Goods located in the EU having Russia as a final destination, and which are included in the sanctions list, fall under the scope of Article 2, 2a and 2b of Council Regulation 833/2014. The prohibition to sell, supply, transfer or export these goods, directly or indirectly, includes the prohibition to transit via the EU territory. Transit of prohibited goods between third countries across an EU country is thus prohibited.

External transit, transhipment, reshipment, re-exported from a free zone, temporary stored and directly re-exported from a temporary storage facility, introduced into the customs territory of the Union on the same vessel or aircraft that will take them out of that territory without unloading, and any other movement of goods entering in the EU and are destined to Russia, will be subject to the risk assessment by the customs authorities, which can decide whether the consignment is in the scope of the sanctions and therefore needing a control. These goods would

be under customs supervision until they exit the customs territory of the Union (see Article 267(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council, of 9 October 2013, laying down the Union Customs Code).

20. What is to be understood by "item"?

Last update: 24 March 2022

Item is to be understood as the "supplementary unit" in the export declaration (data element 18 02 000 000 or 6/2 or Box 41 of the SAD). Customs legislation defines the supplementary unit as the quantity of the item in question, expressed in the unit laid down in Union legislation, as published in TARIC.

For goods that do not have a supplementary unit in TARIC, the information on "number of packages" (data element 18 06 004 000 or 6/10 or Box 31 of the SAD) could be used to check the threshold. Customs legislation defines packages as the smallest external packing unit. The number of packages to be stated in an export declaration refers to the individual items packaged in such a way that they cannot be divided without first undoing the packing, or the number of pieces, if unpackaged. The codes to be stated follow the UNECE recommendation on the matter. The UNECE recommends recording the "immediate wrapping or receptacle of the goods, which the purchaser normally acquires with them in retail sales".

Accordingly, an item means usual packaging for retail sale, e.g. a package of 3 bottles of perfume if they are sold together, or a bottle of perfume if it is meant to be sold separately.

Pursuant to Article 15 of the Union Customs Code, the persons providing information to the customs authorities are responsible for the accuracy and completeness of the information provided. If necessary, the customs authorities may require additional information (invoices, physical controls) to verify the information stated in the customs declaration and whether or not the threshold is reached.

21. Point 17) of Annex XVIII refers to a list of vehicles and appliances and "accessories and spare parts" of those. What is the scope of "accessories and spare parts"? Does it apply to accessories and spare parts of vehicles of a value of EUR 50 000 or below? What is the value threshold applicable to these accessories and spare parts?

Last update: 5 May 2022

Article 3h of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 of 15 March 2022 provides for the prohibition to sell, supply, transfer or export goods listed in Annex XVIII of the same Regulation to any natural or legal person, entity or body in Russia or for use in Russia. The same article establishes that such a prohibition shall apply to the goods listed insofar as their value exceeds EUR 300 per item unless otherwise specified in the Annex.

Point 17) of Annex XVIII refers to vehicles, except ambulances, for the transport of persons on earth, air or sea of a value exceeding EUR 50 000 each, teleferics, chairlifts, ski-draglines, traction mechanisms for funiculars, motorbikes of a value exceeding EUR 5 000 each, as well as their accessories and spare parts.

In relation to the accessories and spare parts, the above mentioned provision and annex should be applied as follows:

- accessories and spare parts of a value of or below EUR 300 per item are not subject to the restrictions provided for in Article 3h
- accessories and spare parts listed in point 17 of Annex XVIII of a value exceeding EUR 300 that are not intended for the use of the vehicles and appliances also listed there are not subject to the restrictions provided for in Article 3h. This means, i.e. that the prohibition does not apply to accessories and spare parts of vehicles of a value of EUR 50 000 or below.
- accessories and spare parts listed in point 17 of Annex XVIII of a value exceeding EUR 300 that are intended for the use of the vehicles and appliances listed there are subject to the restrictions provided for in Article 3h.

22. The transportation and insurance costs are to be included in the customs value. This is very complicated to apply in practice. For every truck, the transport cost will be very different. How we can adjust the transfer price to include the transport costs, particularly when there are different components in one same truck? How is the EUR 300 value to be assessed?

Last update: 25 April 2022

While goods are exported, a declarant is obliged to provide the customs authorities with the information on statistical value for the goods. This obligation exists regardless of the fact whether the exported goods are subject to any restrictions or not.

The relevant provisions on statistical value (Commission Implementing Regulation (EU) 2020/1197 of 30 July 2020) do not regulate the issue of allocation of transportation and insurance costs while the statistical value at exportation is to be established.

Nevertheless, **EUCDM GUIDANCE DOCUMENT** provides explanations in this respect (link: EUCDM Guidance). In accordance with the GUIDANCE, *"The statistical value must include only ancillary charges. These are the actual or calculated costs for transport and, if they are incurred, for insurance, but covering only that part of the journey which is within the statistical territory of the exporting Member State. If transport or insurance costs are not known, they are to be assessed reasonably on the basis of costs usually incurred or payable for such services (considering especially, if known the different modes of transport). (...) If the ancillary costs relate to several items on an export declaration, the respective ancillary costs for each*

individual item must be calculated on a relevant pro rata basis, e.g. kg or volume."

23. **Whether iron tubes under CN code 73079100 can or cannot be exported from the EU to a Russian company that is not on the sanctions list. Whether the goods with the CN code 73079100 can fall within the scope of dual-use goods under Council Regulation (EC) No 428/2009 and Regulation (EU) 2021/821 or whether all goods related to the energy sector now need an authorisation?**
Last update: 25 April 2022

Currently (28 March 2022), CN code 7307 91 00 is not listed in any export ban to Russia or in the correlation table of the dual-use regulation (Regulation (EU) 2021/821).

However, the provisions of the dual-use regulation apply mutatis mutandis to the recent amendments of Regulation 833/2014 (See Regulation (EU) 2022/328). This means notably that, by virtue of the dual-use "catch-all" provisions, the competent authorities can require an authorisation also on goods not listed in the regulations, even for a company not listed in the sanctions list.

24. **Whether the Council Regulation (EU) 2022/355 of 2 March 2022 shall be applied on goods in outward processing customs procedure at the territory of Belarus, even all components used for that processing are from the EU and the final products are re-imported into the EU?**
Last update: 25 April 2022

Restrictions imposed for exports to Belarus go beyond the 'standard' export as per the meaning of the Union Customs Code and thus covering goods sent to Belarus under outward processing as well. However, the restriction for export is applying only to the goods as specified in the amended (EC) No 765/2006. Cylinders (Combined Nomenclature code 73) are not in the list of goods restricted under Article 1s and Annex XIV. However, in order to know whether the specific cylinders are subject to the restrictions envisaged in the other Articles for export of dual-use goods (Annex V(a) of Regulation) the exact CN code is necessary.

Nevertheless, with regard to import, all Articles of iron and steel (Combined Nomenclature (CN) code 73) are subject to the restrictions imposed by Article 1q, unless they fall within the derogation envisaged in paragraph (2): *'The prohibitions in paragraph 1 shall be without prejudice to the execution until 4 June 2022 of contracts concluded before 2 March 2022, or ancillary contracts necessary for the execution of such contracts*.'

25. As the sanctions apply to special procedures including re-export, what would be the next steps for person responsible (holder of procedure) in relation to the ongoing special procedure, taking into account the deadlines for discharge?

Last update: 1 June 2022

The holder of the authorisation can request to the supervising customs office the extension of the time limit to discharge the special procedure. If, despite the extension granted, the holder of the authorisation cannot meet the deadline, he/she can ask for the application of Article 120 UCC, i.e. remission or repayment of the import duty in special circumstances (equity). Such case would need to be carefully considered on a case by case basis.

VARIOUS

26. Is it possible that temporary storage is extended to 6 months instead of 90 days, extendable depending on the progress of the conflict?

Last update: 24 March 2022

Despite the crisis due to the situation in Ukraine, the Union Customs Code (UCC)[11] does not provide for any derogation on the extension of the 90-day time limit established in Article 149 UCC. A solution to this problem, as it was proposed in the COVID guidance, is that the holder of the authorisation for the temporary storage facilities applies to obtain an authorisation for customs warehouse for these facilities (or part of them) and in this manner there would not be time limit to have the goods stored under the customs warehousing procedure. If, despite the implementation of this solution, some goods cannot meet the 90-day time limit, the concerned economic operators may request force majeure and the customs authorities may apply Article 120 UCC (equity).

27. Please confirm if discharge of temporary storage after 90 days by placing the goods under embargo under the special procedure of customs warehouse would not be contradictory to the definition of customs warehouse which explicitly excludes goods under prohibition of entry or exit into or from the customs territory of the Union? (see Article 237 (1) (c) UCC)

Last update: 25 April 2022

The 90-day time-limit for temporary storage as referred to in Article 149 Union Customs Code (UCC) cannot be extended without amending the UCC. A possible solution to keep the goods in the storage facility is that the holders of the authorisations of the temporary storage facilities

[11] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

apply for an authorisation for customs warehouse facilities, so that the goods introduced in in such facilities are not subject to any time limit.

The abovementioned solution is not affected by Article 237(1)(c) UCC because the sanctions to Russia and Belarus are not commercial policy measures as they do not stem from Article 207 TFEU. Therefore, this solution is a feasible alternative to store the goods that are likely not to comply with the 90-day time limit established in Article 149 UCC. The same applies for goods placed under transit and temporary admission as the Articles you mention also refer to commercial policy measures.

28. **Can you confirm that postal flows are subject to the same restrictive measures as other export flows?**
Last update: 24 March 2022

The provision of universal postal services is at global level, in principle, governed by the acts of the UPU – the Universal Postal Union. The UPU Constitution guarantees the free circulation of the mail across the single postal territory of the Union (192 member countries), which is realized by the interconnection of all national postal networks of the member countries. All EU Member States are UPU members. As such, they have ratified the UPU acts, so they are obliged to adhere by them. Furthermore, there is no contrary provision to this element in the EU Postal Services Directive.

However, certain items are prohibited from being sent by post, such as dangerous goods, illicit drugs or any "*items sent in furtherance of a fraudulent act or with the intention of avoiding full payment of the appropriate charges".* Furthermore, every member country of the Universal Postal Union has the option to add to these prohibitions. At the same time, the relevant EU Council Regulations and Decisions are directly applicable in all Member States and both prohibit postal users from sending such items, as well as postal service providers from providing postal services for such items.

While the restrictive measures do not apply to postal services as such, which can continue as long as transport is available, the goods under restrictive measures can in essence be considered as prohibited items and cannot therefore be sent by post.

29. **Do the sanctions provided by Regulation (EU) No 833/2014 only concern "dual use" items or are these also extended to other products? Are EU-based companies allowed to export food items or agricultural and horticultural products? Moreover, dual use goods have CAS numbers, which complicates matters.**
Last update: 25 April 2022

The bans on export to Russia, defined in Regulation (EU) No 833/2014, concern indeed notably

dual-use items but are not limited to these items. Chapters 01 to 24 are less impacted by the bans than the industrial chapters. However, export bans do exist for these chapters. They concern mainly luxury goods classified in these chapters and can impact food items (see article 3h and Annex XVIII of Regulation (EU) No 833/2014).

For information pertaining to derogations to the export ban of food items and more generally to humanitarian derogations, please refer to our dedicated Q&As document. Please note that humanitarian derogations do not apply to export of luxury goods.

We fail to see how the presence of a CAS code for dual-use items complicates the export formalities. If the question needs to be investigated further, more details on the problem mentioned need to be provided.

Guidance has been published and can be found at the following addresses:

- https://ec.europa.eu/taxation_customs/customs-4/international-affairs/eu-measures-following- russian-invasion-ukraine_en
- https://trade.ec.europa.eu/doclib/docs/2022/march/tradoc_160079.pdf
- https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/sanctions-adopted-following-russias-military-aggression- against-ukraine_en
- https://www.sanctionsmap.eu/#/main

Moreover, the "*Export Control Handbook for Chemicals*" is a useful tool to know what chemicals are subject to export controls by various regulations (Dual-use, explosive precursors, drug precursors, chemicals under restrictions for Syria, hazardous chemicals, etc.). The 2022 revision of the handbook will be published very soon. In the meantime the version 2021 can be downloaded. https://publications.jrc.ec.europa.eu/repository/handle/JRC124421

30. **As per Regulation (EU) 2022/238, no reference to specific TARIC codes is made in relation to dual use goods or export prohibition. As per Regulation (EU) 2022/1, which is amendment to Annex I of Regulation (EU) 2021/821, list downs all applicable items under dual use regulation in detail, but we are unable to correlate it directly with TARIC codes. Would be possible to have a clarification of the TARIC codes concerned by EU Regulation2022/238?**
Last update: 25 April 2022

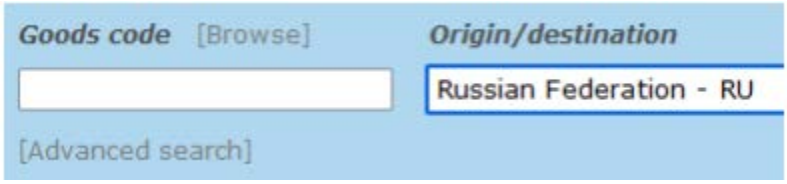
Indeed CN codes for dual-use items are not published in the Official Journal. However, DG TAXUD has published a correlation table between CN codes and dual-use codes. This table lists all CN codes submitted to controls on dual-use items and therefore also submitted to the bans on exports to Russia.

The fact that the goods mentioned in your message are not dual-use items does not mean per se that they are free from the export bans.

These export bans cover a wider product scope than dual-use items and it is advised referring to the information page published by the European Commission for more information on the product coverage.

If the CN codes of the products are known, the sanctions can also be found on the TARIC web site.

Enter "Russia" in the "origin/destination" field and the CN code in the "good code" field.



The Commission does not publish lists of CN codes per regulation. However, if you wish to display all codes impacted by a specific legal act (in this case, Regulation (EU) 2022/328), click on "advanced search" to display the full query screen, and enter the reference of the legal act in the field "Legal base".

31. **Please clarify, whether Russian cultural goods which are temporarily imported into the Union (e.g. international lending between museums for the purpose of exhibitions) could return to their rightful owners in Russia?**
Last update: 1 June 2022

There would be no requirement to obtain an export licence in this case, as the goods are – by definition – not definitively located in a Member State (Article 2(2) of Regulation 116/2009).

As regards sanctions, please note that the Council has adopted on 8 April Regulation (EU) 2022/576, as an amendment to Council Regulation 833/2014, in order to allow the re-export to Russia of cultural goods which are on loan in the context of formal cultural cooperation with Russia. Should the artworks be considered as under a loan in the context of a formal cultural cooperation with Russia, their return to Russia should be possible, subject to, the authorisation of the competent national authority for sanctions.

On this matter, we would suggest you contact your national authority. Please see its contact details in the list available here:

https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/national-competent-authorities-sanctions-implementation_en.pdf

For the sake of completeness, we should mention the possibility - however remote - that a cultural good temporarily admitted in the Union could be nevertheless retained here and not allowed to return to Russia: that would the case where the owner of the good is a Russian national against whom the Union has taken measures of freezing of assets.

32. **What is the customs procedure for people who are living very close to the border and who are daily crossing the Russian border (e.g. people visiting relatives on the other side of the border, people having a property in Russia, people who travel regularly because of work)? How should we interpret personal use of banknotes denominated in any official currency of a Member State in their case?**
Last update: 1 June 2022

The prohibitions stipulated in article 5i of regulation (EU) No 833/2014 apply regardless of the personal or professional situation of the persons carrying the cash.

Regular travellers are submitted to the same provisions. The derogation to the cash export ban for personal use by virtue of article 5i.2(a) allows the travellers to carry cash only for the necessities of the travel and the travellers accompanying them. This exemption does not allow them to bring cash for other recipients in Russia.

Please note that, independently from the above, the travellers must submit a cash declaration to

the national customs authorities, in cases where a declaration must be submitted in accordance with the provisions of the cash controls Regulation (Regulation (EU) 2018/1672)

33. What is meant by the definition of agricultural products? Is this limited to goods obtained through agriculture? Or does it equally concern agricultural machinery

Last update: 1 June 2022

Article 38 of the TFEU provides the definition of "agricultural products", i.e.: "Agricultural products means the products of the soil, of stock-farming and of fisheries and products of first stage processing directly related to these products ". Please refer to Annex 1 to the TFEU "LIST REFERRED TO IN ARTICLE 38 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION" for more details.

Taking into account the above text, Agricultural products should not be considered as covering agricultural machinery.

34. What does it mean when a CN-code in one of Annexes of Regulation (EU) 833/2014 is preceded by an "ex"?

Last update: 29 June 2022

When a CN-code is preceded by an "ex" it means that not all goods under the relevant CN-codes are covered by the prohibition, but only a subset, which can be those corresponding to the description that appears in the table, in the title or sub-title of the relevant annex or in the relevant article in the Regulation. For example, in Annex X of Regulation (EU) 833/2014 the goods covered under CN-Code 8419 89 10 "Cooling towers and similar plant for direct cooling (without a separating wall) by means of recirculated water" only the goods falling under the description in the table as "Alkylation and isomerization units" are subject to the restrictions.

2. EXPORT-RELATED RESTRICTIONS FOR DUAL-USE GOODS AND ADVANCED TECHNOLOGIES

RELATED PROVISION: ARTICLE 2; ARTICLE 2a; ARTICLE 2b OF COUNCIL REGULATION 833/2014

1. What is the purpose of this Guidance and how do the new export restrictions in the Sanctions Regulation relate to existing sanctions against Russia?

Last update: 2 October 2023

Council Regulation (EU) 2022/328 of 25 February 2022[12], Council Regulation (EU) 2022/345 of 1 March 2022, Council Regulation (EU) 2022/394 of 9 March 2022, Council Regulation (EU) 2022/428 of 15 March 2022, Council Regulation (EU) 2022/576 of 8 April 2022, Council Regulation (EU) 2022/879 of 3 June 2022, Council Regulation (EU) 2022/1269 of 21 July 2022, Council Regulation (EU) 2022/1904 of 6 October 2022, Council Regulation (EU) 2022/2474 of 16 December 2022, Council Regulation (EU) 2023/427 of 25 February 2023 and Council Regulation (EU) 2023/1214 of 23 June 2023 build on, and expand, the EU restrictive measures (sanctions) in form of export restrictions under the Sanctions Regulation[13].

This Guidance aims at supporting competent authorities and stakeholders, including exporters, in the implementation of the export restrictions introduced in Articles 2, 2a and 2b and the related provisions in Articles 1, 2c and 2d of the Sanctions Regulation, without prejudice to that regulation or of other regulations.

2. What does the Sanctions Regulation do in the area of export restrictions, including export controls for dual-use and advanced technologies?

Last update: 10 October 2022

Firstly, the Sanctions Regulation has expanded the scope of export restrictions concerning dual-use goods and technologies as identified in Annex I of the EU Dual-Use Regulation[14]. The export of these items has been prohibited since 2014 for the military sector. Now the prohibition applies even when these items are intended for civilian end-users or uses, with very limited exemptions and derogations.

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[12] Council Regulation (EU) 2022/328 of 25 February 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

[13] Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

[14] Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

Secondly, the Sanctions Regulation also prohibits the export of additional 'Advanced Technology' items to limit the enhancement of Russia's military and technological capacity in sectors such as electronics, computers, telecommunications and information security, sensors and lasers marine, chemicals that could be used in the process of manufacture of chemical weapons, special materials and related equipment, manufacturing equipment and other sensitive items, such as those used by law enforcement bodies.

Thirdly, the Sanctions Regulation identifies entities connected to Russia's defence and industrial base, on whom even tighter export restrictions are imposed.

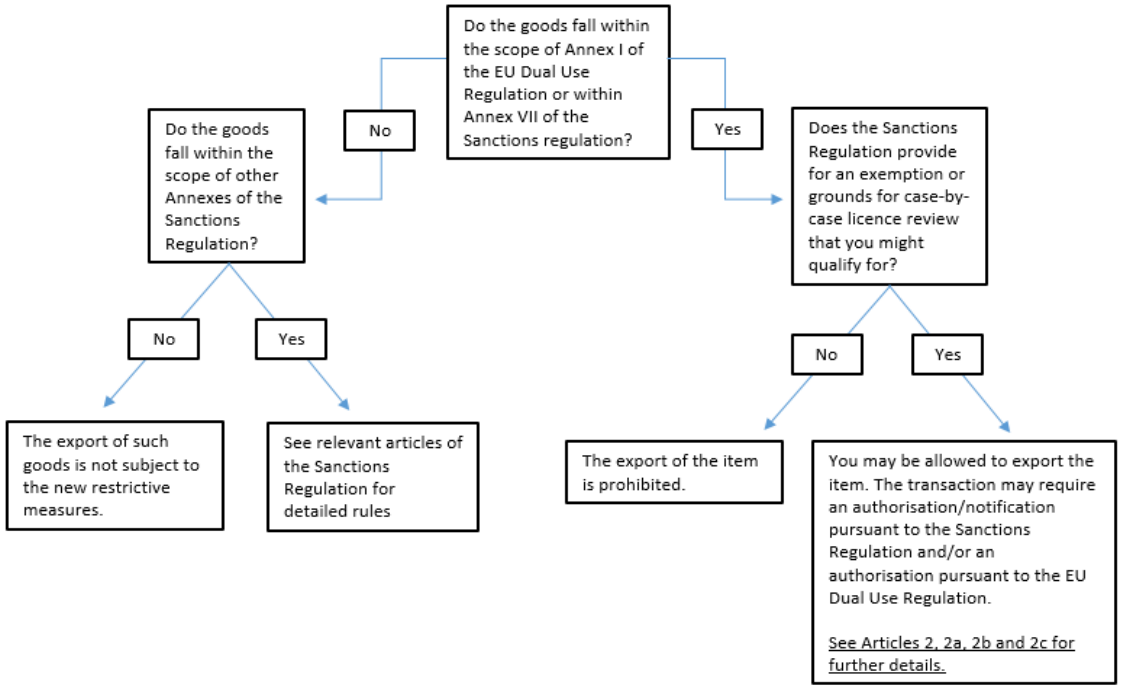
As in other EU sanctions regimes, the export restrictions apply to the sale, supply, transfer and export of covered items, as well as the provision of brokering services and of technical and financial assistance.

The new provisions foresee very limited exemptions and derogations in certain defined situations further explained in this document. Similarly, the Sanctions Regulation allows for some possibility of continuing exporting under pre-existing, or "grandfathered" contracts, subject to an authorisation by the competent authority.

Lastly, the Sanctions Regulation contains other export restrictions e.g. an export ban for goods and technology suited for use in aviation or the space industry as well as in the energy sector, for luxury goods, on maritime navigation goods and technology and on goods which could contribute in particular to the enhancement of Russian industrial capacities. These measures are not covered by this FAQ.

3. **I am an exporter selling products to Russia. How can I verify that I am allowed to export the product and whether it requires any prior authorisation?**
   Last update: 10 October 2022

In simplified terms, the process for verifying if you are concerned by an export restriction is the following:



This is a simplified diagram. For further clarification, please check with the relevant competent authorities of your Member State whether the Sanctions Regulation (or other restrictions) apply to the product you are selling to Russia.

Certain Annexes to the Sanctions Regulation, for example Annexes II, X, XI, XVIII and XXIII, include codes of the Combined Nomenclature (CN), while dual-use items and advanced technology items listed in Annex VII are identified with technical descriptions. As part of its compliance obligations, the economic operator must verify, based on the CN code or the technical description, whether an item to be exported is covered or not. The fact that the CN code corresponding to an item is not listed in the Sanctions Regulation does not exclude that certain items classified under that CN code are affected because they may be dual-use items or those of Annex VII to the Sanctions Regulation, in accordance with Articles 2, 2a and 2b. As regards dual-use items and those of Annex VII of the Sanctions Regulation, there is no correlation in the Sanctions Regulation between the CN codes and such items subject to the restrictive measures.

4. **The new measures take the form of "prohibitions": is there now a total ban of exports to Russia for dual-use and 'Advanced Technology' items?**
   Last update: 10 October 2022

The export restrictions applicable to items covered by Annex I to the EU Dual-Use Regulation and to 'Advanced technology' items take the form of prohibitions but there are limited exemptions and derogations. Exemptions according to Article 2(3) and Article 2a(3) cover, among others, humanitarian needs, health emergencies, natural disasters, medical and pharmaceutical uses, temporary exports of equipment for use by news media and items for personal use. Derogations according to Article 2(4) and Article 2a(4) cover, among others, exports intended for government-to-government cooperation, exports intended for civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50% public ownership, exports for the operation, maintenance and safety of civil nuclear capabilities, or exports intended for companies owned, or solely or jointly controlled by an EU entity or the entity of a partner country, exports covered by prior contracts and items ensuring cyber-security and information security.

These exemptions and derogations are not available for export to individuals or entities connected to Russia's defence and industrial base, as listed in Annex IV. For these entities, export is only permitted under the conditions specified in Article 2b(1)(a) and (b).

In parallel, it should be noted that the exemptions and derogations mentioned above are also not available for exports for the energy sector and for aviation or space industry except if they are intended for intergovernmental cooperation in space programmes.

5. **What happened to EU exports to Russia on the day when the measures entered into force, if they were caught under the Sanctions Regulation?**
   Last update: 16 March 2022

The export restrictions entered into force and became fully applicable on 26 February 2022.

From that date, exports of goods and technology subject to the export restrictions introduced by the Sanctions Regulation are only allowed if permitted under (i) relevant exemptions, or (ii) derogations subject to authorisation. If an authorisation is required, until such an authorisation is granted, trade may not proceed.

6. **What happened to EU exports to Russia on the day when the measures entered into force, if they were not caught under the Sanctions Regulation?**
   Last update: 16 March 2022

If the items are not covered by the Sanctions Regulation, they may be sold, supplied, transferred or exported to Russia without restrictions and the related provision of technical and financial

assistance may continue. This is without prejudice to any other trade restrictions that might be in place under other provisions of the Regulation or under other regulations.

7. **How does the Sanctions Regulation relate to the existing Dual-Use Regulation? Does it supersede it? Do both continue to apply?**
   Last update: 10 October 2022

The Sanctions Regulation applies "without prejudice" – i.e. in parallel – to the EU Dual-Use Regulation (EU) 2021/821. Exporters must ensure they comply with both regulations.

Consequently, the export of dual-use items might require an authorisation under the EU Dual-Use Regulation and, where a derogation applies under the Sanctions Regulation, also under that regulation. In case of doubt, exporters should contact the competent authority of the Member State where the exporter is resident or established.

In case the export of a dual-use item or an 'Advanced technology' item in Annex VII falls under the scope of an exemption according to Articles 2(3) and 2a(3), no prior authorisation is required under the Sanctions Regulation. For dual-use items, however, an authorisation might still be required under the EU Dual-Use Regulation.

For authorisations for goods and technology listed in Annex VII of the Sanctions Regulation, the rules and procedures laid down in the EU Dual-Use Regulation apply, mutatis mutandis. This means, for example, that when the export of an item not listed under Annex I of the Dual-Use Regulation is subject to an authorisation requirement under the EU Dual-Use Regulation, for example under Article 4 (so-called 'catch-all' clauses), such authorisation requirements remain in place, notwithstanding the fact that the same item may be listed in Annex VII to the Sanctions Regulation.

8. **How does the 'catch-all' rule in the EU Dual-Use Regulation apply for entities listed in Annex IV of the Sanctions Regulation?**
   Last update: 16 March 2022

The export of dual-use items for military use and end-users is prohibited under the Sanctions Regulation. The export of items not listed in Annex I to the EU Dual-Use Regulation may still be subject to control under the "catch-all clause" of the EU Dual-Use Regulation, i.e. to ensure that they are not for military uses or end-users (including where the export concerns individuals or entities listed on Annex IV to the Sanctions Regulation).

9. **What restrictions apply to the provision of technical assistance and brokering services?**
   Last update: 16 March 2022

The definition of 'technical assistance' and 'brokering services' can be found in Articles 1(c) and 1(d) of the Sanctions Regulation. The provision of such assistance or services falls under the prohibitions in Articles 2(2) and 2a(2) and it may be subject to the exemptions and derogations pursuant to Articles 2(3) and 2a(3), Articles 2(4) and 2a(4) and Articles 2(5) and 2a(5).

10. **What information should be provided for notification and request for authorisation purposes for exports of dual-use or advanced technology items and the related technical assistance subject to exemptions or derogations under the Sanctions Regulation?**
    Last update: 10 October 2022

The notification to the competent authority and the request for authorisation shall – whenever possible - be submitted by electronic means. Annex IX to the Sanctions Regulation provides forms containing the mandatory elements for these notifications or applications and whenever possible, exporters should use these forms. However, when the use of the form is not possible, exporters shall provide at least all the elements described in the form and in the order provided set out in the forms.

If the item is covered by the EU Dual-Use Regulation, exporters must also submit the form(s) pursuant to that Regulation to the competent authority.

The notification/application/authorisation form in Annex IX to the Sanctions Regulation only refers to the provisions of Articles 2, 2a and 2b. It does not affect the use of forms related to other provisions of the Sanctions Regulation.

11. **The item I am planning to export is not a dual-use item, nor is it included in Annex VII to the Sanctions Regulation. However, it includes a component listed in Annex I of the EU Dual-Use Regulation or in Annex VII to the Sanctions Regulation. Am I concerned by the export restrictions?**
    Last update: 10 October 2022

Non-controlled items containing one or more components listed in Annex VII are not subject to the export restrictions applicable to the export of these components, provided that the transaction is not intended to circumvent rules on dual-use export control or the restrictions on dual-use and 'Advanced technology' items pursuant to the Sanctions Regulation.

However, non-controlled items containing one or more components listed in Annex I of the EU Dual-Use Regulation may still be subject to export controls under the so-called 'principal

elements rule' (point 2 of the General Notes to Annex I of the EU Dual-Use Regulation). This means that the object of the controls contained in Annex I may not be defeated by the export of any non-controlled goods containing one or more controlled components when the controlled component or components are the principal element of the goods and can feasibly be removed or used for other purposes. In judging whether the controlled component or components are to be considered the principal element, it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured.

12. What situations are covered by the exemptions under the Sanctions Regulation?
Last update: 2 October 2023

Articles 2(3) and 2a(3) of the Sanctions Regulation provide for six limited exemptions from the export restrictions provided that certain conditions and requirements are fulfilled, i.e. the use of the exemption is declared to the customs authorities and a notification is made the first time it is used. These exemptions apply to:

- humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment or as a response to natural disasters;
- medical or pharmaceutical purposes;
- temporary export of items for use by news media;
- software updates;
- use as consumer communication devices; or
- personal use of natural persons travelling to Russia or members of their immediate families travelling with them, and limited to personal effects, household effects, vehicles or tools of trade owned by those individuals and not intended for sale.

For exemptions related to transit through Russia, please check question 42.

13. What situations are covered by the derogations with requirement of authorisation under the Sanctions Regulation?
Last update: 2 October 2023

Article 2(4) of the Sanctions Regulation provides for eight derogations where an authorisation must be requested from the competent authority. Until the authorisation is granted, the export of the item is prohibited. The derogations cover situations where the item is intended for:

(a) cooperation between the Union, the governments of Member States and the government of Russia in purely civilian matters;

(b) intergovernmental cooperation in space programmes;

(c) the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular, in the field of research and development;

(d) maritime safety;

(e) civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50% public ownership;

(f) the exclusive use of entities owned, or solely or jointly controlled by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;

(g) diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions; and

(h) ensuring cyber-security and information security for natural and legal persons, entities and bodies in Russia except for its government and undertakings directly or indirectly controlled by that government.

Article 2a(4) of the Sanctions Regulation provides for nine derogations where an authorisation must be requested from the competent authority. Until the authorisation is granted, the export of the item is prohibited. The derogations cover situations where the item is intended for:

- cooperation between the Union, the governments of Member States and the government of Russia in purely civilian matters;
- intergovernmental cooperation in space programmes;
- the operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular, in the field of research and development;
- maritime safety;
- civilian non-publicly available electronic communications networks which are not the property of an entity that is publicly controlled or with over 50% public ownership;
- the exclusive use of entities owned, or solely or jointly controlled by a legal person, entity or body which is incorporated or constituted under the law of a Member State or of a partner country;
- diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions;
- ensuring cyber-security and information security for natural and legal persons, entities and bodies in Russia except for its government and undertakings directly or indirectly controlled by that government; and

- exclusive use and under the full control of the authorising Member State and in order to fulfil its maintenance obligations in areas which are under a long-term lease agreement between that Member State and the Russian Federation.

Article 12b of the Sanctions Regulation provides for a temporary derogation strictly necessary for the divestment from Russia or the wind-down of business activities in Russia subject to the fulfilment of certain conditions. Request for authorisations under this derogation can take place until 31 December 2023.

For contracts concluded before 26 February 2022, please check questions 29 to 32. For situations with individuals or entities listed in Annex IV, please check question 20. For derogations related to transit through Russia, please check question 43.

14. How can the exporter demonstrate conclusively that one of the exemptions or derogations applies to its situation?
Last update: 16 March 2022

It is for the competent authority to determine the necessary documentation that might be useful to assess and verify that the conditions for exemptions or derogations are met. This documentation may include contracts, intergovernmental agreements, and declarations from the exporter (self-declaration).

15. The exemption under Article 2(3)(b) and Article 2a(3)(b) can apply under the condition that the goods and technology are intended for non-military use and for a non-military end-user. What does that mean?
Last update: 10 October 2022

The exemptions in Articles 2(3) and 2a(3) allow exports of dual-use and advanced technologies intended for humanitarian purposes, health emergencies and medical purposes from the relevant restrictions, as long as such exports are destined for non-military use and for a non-military end-user. Therefore, where the items are destined for a civilian facility as the end-user, the exemption could apply unless there are reasonable grounds to believe that the items could be diverted to a military use or end-user.

16. Can you explain in more detail how exemptions and derogations operate concerning the exports of Dual-use items and 'Advanced Technology' items?
Last update: 10 October 2022

The Sanctions Regulation prohibits the sale, supply, transfer or export, or the related provision of technical and financial assistance, of goods or technology to military end users in Russia, for

military end uses and users listed in Annex IV to the Sanctions Regulation.

This covers both Dual-use items (listed in Annex I of the EU Dual-Use Regulation) and 'Advanced Technology' items (listed in Annex VII to the Sanctions Regulation).

In relation to potential exports to non-military end-users not listed in Annex IV to the Sanctions Regulation or for non-military end uses of those goods and technology, the following applies:

- For Dual-use items listed in Annex I to the EU Dual-Use Regulation or under authorisation requirement due to the application of a catch-all clause:
    - if the intended end-use falls under the scope of the exemptions listed in Article 2(3) (see under question 12), it is not necessary to seek an authorisation pursuant to the Sanctions Regulation, but the exporter shall comply with the requirements pursuant to the EU Dual-Use Regulation. In addition, the Sanctions Regulation requires the exporter to declare in the customs declaration that the items are being exported under the relevant exemption and notify the competent authority of the Member State where the exporter is resident or established when they export for the first time using the relevant exemption within 30 days from the date when the first export took place. The national competent authorities will monitor the use of exemptions with a view to preventing any risk of circumvention of the measures.
    - if the intended end-use falls under the scope of any of the eight activities listed in Article 2(4) (see under question 13), the exporter shall apply for an authorisation and a case-by-case assessment is made by the competent authority of the Member State where the exporter is resident or established. In addition, the exporter shall comply with the requirements pursuant to the EU Dual-Use Regulation.
    - if the export falls under contracts concluded before 26 February 2022, please check questions 29-32.
- For 'Advanced Technology' items as listed in Annex VII to the Sanctions Regulation:
    - if the intended end-use falls under the scope of the eight exemptions listed in Article 2a(3) (see under question 12), it is not necessary to seek an authorisation pursuant to the Sanctions Regulation. The Sanctions Regulation requires the exporter to declare in the customs declaration that the items are being exported under the relevant exemption and notify the competent authority of the Member State where the exporter is resident or established when they export for the first time using the relevant exemption within 30 days from the date when the first export took place.

      The national competent authorities will monitor the use of exemptions with a view to preventing any risk of circumvention of the measures.
    - if the intended end-use falls under the scope of activities listed in Article 2a(4) (see

under question 13), the exporter shall apply for an authorisation by the competent authority of the Member State where the exporter is resident or established.

- if the export falls under contracts concluded before 26 February 2022, please check questions 29-32.

In addition, as regards aviation and space industry items, please see question 4, which confirms that the derogations and exemptions above are not available for those sectors except if they are intended for intergovernmental cooperation in space programmes.

17. What rules and procedures apply to the authorisations pursuant to the Sanctions Regulation?
Last update: 16 March 2022

Authorisations pursuant to Articles 2, 2a and 2b are processed by the competent authorities listed in Annex I to the Sanctions Regulation and follow the rules and procedures laid down in the EU Dual-Use Regulation, which applies mutatis mutandis.

18. I am an exporter of cyber-security and information security items, such as software, do I need to apply for a licence under the Sanctions Regulation each time I make a software available to my Russian customers and provide updates to them?
Last update: 10 October 2022

The Sanctions Regulation applies "without prejudice" – i.e. in parallel – to the EU Dual-Use Regulation (EU) 2021/821. Exporters must ensure they comply with both regulations.
Consequently, the export of dual-use items might require an authorisation under the EU Dual-Use Regulation and, where a derogation applies under the Sanctions Regulation, also under that regulation. In case of doubt, exporters should contact the competent authority of the Member State where the exporter is resident or established.

For authorisations for goods and technology listed in Annex VII to the Sanctions Regulation, the rules and procedures laid down in the EU Dual-Use Regulation apply, mutatis mutandis. This means, for example, that the competent authority of the Member State where the exporter is resident or established may decide to grant a global export authorisation, as defined in the EU Dual-Use Regulation[7], for the export of cyber-security and information security items in Annex VII. Such authorisation could cover, for instance, the export of a specified item and subsequent *updates* (for example bug-fixes, malware fingerprint data) and/or *upgrades* (unlocking additional functionalities) to multiple end-users in Russia, recognising that some exporters of cybersecurity items may have large numbers of customers.

19. Can my company perform remote software configuration updates, software monitoring and software log analysis telecommunication and Information Security equipment installed in Russian sites of customers?
Last update: 10 October 2022

Sale, supply, transfer or exports of dual-use and advanced technology items (as well as related provision of technical assistance) intended for software updates are allowed under the exemption of Article 2(3)(d) and 2a(3)(d) of the Sanctions Regulation. EU companies can provide remote software interventions, including software configuration updates, software monitoring and software log analysis, related to dual-use goods and technology and to certain goods and technology listed in annex VII of the Sanctions Regulation for non-military use and for a non-military end-user. As indicated in the relevant provisions, the exporter shall notify the competent authority of the Member State where the exporter is resident or established of the first use of the relevant exception within 30 days from the date when the remote software intervention is provided.

20. Is it still possible to export to the individuals or entities listed in Annex IV? What rules apply to the subsidiaries of these entities or entities controlled by them?
Last update: 10 October 2022

Stricter conditions apply for exports to certain end-users connected to Russia's defence and industrial base. With respect to these individuals and entities listed in Annex IV to the Sanctions Regulation, exemptions do not apply and only some very limited possibilities of authorisation by the competent authorities apply for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment. With regard to these individuals and entities, contracts concluded before 26 February 2022 may be executed, subject to an authorisation by the competent authority, but trade must stop until such authorisation is granted. Such authorisations should have been requested before 1 May 2022.

Export restrictions to these entities do not apply if the items concerned are not listed in Annex VII to the Sanctions Regulation ('Advanced technology' items) nor listed in Annex I to the EU Dual-Use Regulation or subject to catch-all clauses under the EU Dual-Use Regulation. This is without prejudice to any other export restrictions that might be in place under the Sanctions Regulation, other rules or regulations.

EU exporters must also ensure that the covered items do not reach the listed entities indirectly (via those entities' non-listed subsidiaries or other entities they control, or via an intermediary). The sale, supply, transfer or export of covered items to a third-party intermediary is also prohibited, if the items would reach the listed entity. In all situations, EU exporters should perform adequate due diligence on their business partners and the final destination of the goods.

EU exporters are furthermore prohibited from participating, knowingly and intentionally, in activities the object or effect of which is to circumvent these export restrictions.

21. What if the exports of Dual-use or 'Advanced Technology' items do not appear to fall within the exemptions or the derogations, can I still apply for an authorisation?
Last update: 16 March 2022

As a general rule, if you fall outside these situations there is no point in applying for an authorisation.

For the conditions applicable to the fulfilment of existing contracts, please check questions 29-32.

22. How did you select the items included in your list of 'Advanced Technology' products?
Last update: 16 March 2022

The items included in the list of products in Annex VII were selected on the basis that they may contribute, directly or indirectly, to enhancing Russia's military and technological capacity. They were also selected in cooperation with our partner countries.

23. How should the term 'other services' be interpreted?
Last update: 9 June 2022

The term "other services" is comprehensive. It covers all services that are "related to the goods and technology […] and to the provision, manufacture, maintenance and use of these goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia, or for use in Russia". It is for the EU Company to ensure that the provision of services in question is not related to the sanctioned good or to the provision, manufacture, maintenance and use of this sanctioned good.

PRACTICAL OPERATION OF THE EXPORT RESTRICTION OF DUAL-USE AND 'ADVANCED TECHNOLOGY' ITEMS FOR BUSINESSES

24. How can I verify/demonstrate that the technical specifications of the items I want to export do or do not fall under the Annex with 'Advanced technology' items?
Last update: 16 March 2022

Items in Annex VII are listed on the basis of their description and their technical parameters. When exporting to Russia and your items are subject to controls, you might be asked to provide

any document needed to identify your item, and useful to its identification and classification, including, for example, technical datasheet where characteristics and technical parameters of your item are listed.

25. What is the "indicative temporary correlation table" linking customs codes to items in Annex VII?
Last update: 10 October 2022

Annex VII to the Sanctions Regulation listing 'Advanced Technology' items does not contain commodity (customs) codes.

Annex I of this FAQ includes, for purely informative purposes, a Correlation Table with references correlating the goods in Annex VII to the Sanctions Regulation with the corresponding commodity codes as defined under the rules of the Common Customs Tariff and Combined Nomenclature (CN). This is provided as courtesy to economic operators to help them in the identification and classification of goods in Annex VII that are subject to the measures set out in Article 2a(1) and 2b(1) of the Sanctions Regulation. The corresponding 8-digit CN codes provide a non-binding guide for economic operators to detect and identify the goods that they are declaring. It is not binding and is provided without prejudice to all the obligations of the economic operator from the point of view of export control and sanctions to be checked at the moment of the lodging of the customs declaration.

It should be noted that, while the commodity codes support economic operators in their compliance efforts, an additional technical assessment is necessary for drawing conclusions as to whether a good is subject to the export restrictions. This additional technical assessment is often required as, in most cases, there is not a perfect match between the description of the goods in Annex VII and the description of corresponding commodity codes.

The commodity codes are taken from the Combined Nomenclature. This is defined in Article 1(2) of Council Regulation (EEC) No 2658/87[15] and as set out in Annex I thereto, which are valid at the time of publication of the Sanctions Regulation.

26. Please clarify the term "tractor" in X.A.VII.001. Is it tractor for use in agriculture or does it refer to heavy trucks?
Last update: 16 March 2022

The term 'tractor' (Item X.A.VII.001.b in Annex VII) concerns off highway wheel tractors, which include agriculture tractors as long as they meet the technical parameters required in this control.

[15] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

Heavy trucks understood as road trucks for semi-trailers are covered by item X.A.VII.001.c in the same annex.

27. How do I apply for a derogation concerning dual-use items?

Last update: 16 March 2022

To facilitate the notification and authorisation of sale, supply, transfer or export of items falling under the scope of Articles 2, 2a and 2b of the Sanctions Regulation, Annex IX of the Regulation provides a template with the mandatory elements of information to be provided by the exporter to the competent authority of the Member State where the exporter is resident or established.

If the item also falls under the scope of the EU Dual-Use Regulation, the exporter must also comply with the requirements pursuant to that regulation, using the template made available in that regulation.

The list of Member States' competent authorities for the Sanctions Regulation is available in Annex I to the Sanctions Regulation.

The list of Member States' competent authorities under the EU Dual-Use Regulation is published in the Official Journal of the European Union[16]. A copy of that list is available on the dedicated website of the Commission.

28. I have a contract with a Russian company involving the exports of an item covered by the Sanctions Regulation. Can I continue exporting the item to the Russian company?

Last update: 10 October 2022

In order to allow the fulfilment of contracts concluded before 26 February 2022, Member States may authorise the export of dual-use and 'Advanced technology' items for non-military uses and non-military end-users provided the exporter requested such an authorisation before 1 May 2022. These authorisations shall be assessed by the competent authority according to the applicable rules. Until the authorisation is received, exports of such items covered by the new sanctions are prohibited. Beyond 1 May 2022, it is not allowed to seek authorisation for the fulfilment of existing contracts.

The competent authority of the Member State where the exporter is resident or established shall not grant an authorisation if there are reasonable grounds to believe that the end-user might be a military end-user or an individual or entity listed in Annex IV or that the goods might have a

[16] Information note - Regulation (EU) 2021/821 of the European Parliament and of the Council setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1.): Information on measures adopted by Member States in conformity with Articles 4, 6, 7, 9, 11, 12, 22 and 23.

military use, unless the export is intended for humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters. Furthermore, national competent authorities shall not grant an authorisation if there are reasonable grounds to believe that the export is intended for aviation or the space industry (unless it is intended for intergovernmental cooperation in space programmes) or for the energy sector.

If the contract has been concluded directly with an individual or entity listed in Annex IV, national competent authorities can authorise its continued execution only if the items are necessary for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment.

All authorisations by the competent authorities of the Member States must be granted in accordance with the rules and procedures laid down in the EU Dual-Use Regulation, which applies mutatis mutandis. This includes the period of validity of such authorisations.

In case the contract provides for the exports of a dual-use controlled item, the exporter needs to hold the necessary authorisation pursuant to the EU Dual-Use Regulation before the actual exports.

29. To whom and how do I apply to in order to get my contract authorised to continue?
Last update: 16 March 2022

To facilitate the authorisation of existing contracts, Annex IX to the Sanctions Regulation provides a template with the mandatory elements of information to be provided by the exporter to the competent authority of the Member State where the exporter is resident or established. If the item falls under the scope of the EU Dual-Use Regulation, the exporter must comply with the requirements pursuant to that Regulation as well.

The list of Member States' competent authorities is available in Annex I to the Sanctions Regulation.

The list of Member States' competent authorities under the EU Dual-Use Regulation is published in the Official Journal of the European Union[17]. A copy of that list is available on the Dual-use export control webpage of the Commission.

[17] Information note - Regulation (EU) 2021/821 of the European Parliament and of the Council setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (OJ L 206, 11.6.2021, p. 1.): Information on measures adopted by Member States in conformity with Articles 4, 6, 7, 9, 11, 12, 22 and 23.

30. **Is it possible to authorise the grandfathering of a contract if there are reasonable grounds to believe that the end-user is a military end-user or if the goods might have a military end-use?**
Last update: 10 October 2022

No. The derogations in Articles 2(5) and 2a(5) are intended for non-military uses and for non-military end-users. Article 2(7) and Article 2a(7) provide that when deciding on requests for authorisations, the national competent authorities cannot grant an authorisation if they have reasonable grounds to believe that the end-user might be a military end-user or the goods might have a military end-use.

According to Article 2b(1) point (b), the grandfathering of a contract can be authorised in the case where the end-user is an entity or natural person listed in Annex IV.

In all cases, an authorisation for the execution of a contract concluded before 26 February 2022 can only be granted if the request for authorisation was made before 1 May 2022.

31. **Is it possible to execute contracts where the item was delivered before the entry into force of the Sanctions Regulation, but some activities are still required for the completion of the contract? For example, can an EU-based company provide technical assistance in Russia in relation to an item which is covered by the Sanctions Regulation, if it was sold to a Russian end-user before the entry into force of the sanctions and fully paid by the end-user?**
Last update: 16 March 2022

The execution of contracts where the items were delivered and some activities need to be undertaken by the seller (for example technical interviews with the customer; formal acceptance of the product/items; testing; contract closeout and milestones payment) requires an authorisation for the completion of those parts of the contract concerning after-sale services.

32. **How should the word "contracts" be interpreted? Has a contract been concluded if, for instance, an order has been placed in an electronic system of a European economic operator? Is it any contract with an existing customer in Russia, regardless of whether a specification of quantity and specific code numbers (e.g. CN-codes) have been agreed upon?**
Last update: 16 March 2022

Articles 2(5), 2a(5), and 2b(1)(b) do not define the term 'contracts'. Given that the object and purpose of those provisions is to enable, subject to authorisation, exporters to honour their contractual obligations under relevant domestic law, it is for the competent authorities to assess under their domestic laws whether a contract has been concluded.

In general, in the context of EU sanctions, a contract is considered concluded where it contains all the necessary elements for the execution of a transaction (such as product, price, quantities, deliver dates, modalities of execution, etc.). If one of these essential elements is missing and would therefore require the signature of a subsequent agreement, the initial agreement should not be considered as a contract.

33. Is an EU exporter allowed to fulfil a contract with a Russian entity requiring the export of an item covered by the Sanctions Regulation through a subsidiary of the Russian entity based in the EU or in a third country?
Last update: 16 March 2022

The Sanctions Regulation prohibits "to sell, supply, transfer or export, directly or indirectly, [covered items], whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia". It also prohibits "to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions" in the Regulation.

The EU exporter would therefore need to seek the authorisation of the competent authorities under Articles 2(5), 2a(5), and 2b(1)(b) in order to be allowed to fulfil any contract requiring export of a covered item to Russia or for use in Russia.

If the subsidiary of the Russian entity is based in the EU, that subsidiary is itself bound to comply with the Sanctions Regulation.

EU exporters must also ensure that the covered items do not reach the listed entities indirectly (via those entities' non-listed subsidiaries or other entities they control, or via an intermediary). The sale, supply, transfer or export of covered items to a third-party intermediary is also prohibited, if the items would reach the listed entity. In all situations, EU exporters should perform adequate due diligence on their business partners and the final destination of the goods.

EU exporters are furthermore prohibited from participating, knowingly and intentionally, in activities the object or effect of which is to circumvent these restrictions.

34. **To what extent are the sanctions measures binding on (i) subsidiaries of EU companies outside of the EU and (ii) EU nationals residing or working outside of the EU? How should Russian entities, which are owned or controlled by an EU company, act in light of the Sanctions Regulation? Can a Russia-based subsidiary of an EU company sell products covered by the Sanctions Regulation to other Russian entities if these products are in stock on the premises of the Russian subsidiary? Would this be seen as a circumvention?**
Last update: 16 March 2022

The scope of application of the Sanctions Regulation is set out in Article 13; EU sanctions do not apply extraterritorially. The Sanctions Regulation applies, inter alia, to any person inside or outside the territory of the Union who is a national of a Member State, and to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State.

Subsidiaries of EU companies are incorporated under the laws of the host country, thus bound by the host country laws. Nevertheless, EU nationals working for that subsidiary are personally bound by EU sanctions and can be held personally liable for participating in transactions which breach EU sanctions. For example, even if the subsidiary itself entered the transaction, EU nationals facilitating the transaction could still be covered by the anti-circumvention clause if they "participate in activities" the object or effect of which was to circumvent the main prohibition. In addition, decisions taken by the foreign subsidiary that need to be cleared/green-lighted by the EU parent company would be relevant, in that the latter is bound in respect of its own actions.

35. **My company has equity in a joint venture in Russia. Can I continue supplying the joint venture with Dual-use or 'Advanced Technology' items subject to the sanctions?**
Last update: 16 March 2022

If your EU-based company solely or jointly controls a joint venture company established in and under the laws of Russia and the item is intended for the exclusive use of the joint venture, it is possible to seek authorisation for the exports of the item. For the derogations applicable to exports intended to fulfil contracts concluded before 26 February 2022, please check questions 29-32.

36. **What are the grounds for annulling, suspending, modifying or revoking an authorisation?**
Last update: 16 March 2022

Member States' competent authorities under the EU Dual-Use Regulation issue export

authorisations for dual-use items based on specific and case-by-case assessment. Where the competent authorities have grounds for a review of their previous assessment, Article 16(1) of the EU Dual-Use Regulation allows them to annul, suspend, modify or revoke an export authorisation which was already granted.

This may be due to, among others, the changed assessment of risks associated to a specific end-use, end-user or destination of concern, or further restrictions to trade in goods that may have been adopted once the export authorisation was granted. There might, however, be also other reasons for a competent authority to annul, suspend, modify or revoke export authorisations.

The Sanctions Regulation allows the competent authorities to annul, suspend, modify or revoke an authorisation, which they have granted if they deem that such annulment, suspension, modification or revocation is necessary for the effective implementation of the Sanctions Regulation.

37. Do export licences issued before 26 February 2022 remain valid?
Last update: 16 March 2022

Export of dual-use items to Russia is prohibited under the Sanctions Regulation, even for civilian uses, as of 26 February 2022. Some exemptions and derogations, as listed in the Sanctions Regulation still allow for the export of dual-use items licensed before 26 February 2022 in very specific cases and under very strict conditions, including the need for additional export authorisations under the Sanctions Regulation.

That being said, the Sanctions Regulation does not oblige the competent authorities to suspend or revoke licences granted under the EU Dual-Use Regulation. It rather requires that the same exports comply with the new prohibitions on dual-use exports as set out in the Sanctions Regulation and can only continue under an exemption or a derogation.

38. What about goods that are *en route*? Do you have a "shipping" clause?
Last update: 10 October 2022

No. The Sanctions Regulation does not provide specific flexibilities for items that were under way inside the European Union on the date when the item concerned became subject to Articles 2, 2a or 2b of the Regulation.

39. I have been trading under conditions and requirements for using a General Export Authorisation No EU003 (Export after repair/replacement), EU004 (Temporary export for exhibition or fair) or EU005 (Telecommunications). Can I export to Russia?
Last update: 10 October 2022

Pursuant to Article 12(1)(d) of the EU Dual-Use Regulation, Union general export authorisations apply to exports of certain items to certain destinations under specific conditions and requirements for use.

The three following Union general export authorisations were – in the past - usable for exports to Russia of dual-use items, under specific conditions and requirements for each of them:

- EU003: Union general export authorisations for items that are re-exported after being repaired or replaced in the Union.

- EU004: Union general export authorisations for items that are temporarily exported for the purpose of an exhibition or fair.

- EU005: Union general export authorisations for items of the telecommunications category.

In order to align the EU Dual-Use Regulation with the restrictive measures against Russia and to ensure legal clarity, Russia was removed from the list of destinations covered by those Union general export authorisations, by means of a delegated regulation amending the relevant Annexes to the EU Dual-Use Regulation[18]. The delegated regulation entered into force on 5 May 2022.

40. What is the effect of these sanctions on goods originating from a non-EU jurisdiction that are transiting through a Member State with Russia as final destination? Do the measures apply for transhipments via an EU country?
Last update: 16 March 2022

Goods located in the EU having Russia as a final destination, and which are included in the sanctions list, fall under the scope of Articles 2, 2a and 2b of the Sanctions Regulation. The prohibition to sell, supply, transfer or export these goods, directly or indirectly, includes the prohibition to transit via the EU territory. Transit of prohibited goods between third countries across an EU country is thus prohibited.

[18] Commission Delegated Regulation (EU) 2022/699 of 3 May 2022 amending Regulation (EU) 2021/821 of the European Parliament and of the Council by removing Russia as a destination from the scope of Union general export authorisations

External transit, transhipment, reshipment, re-exported from a free zone, temporary stored and directly re-exported from a temporary storage facility, introduced into the customs territory of the Union on the same vessel or aircraft that will take them out of that territory without unloading, and any other movement of goods entering in the EU and are destined to Russia, will be subject to the risk assessment by the customs authorities, which can decide whether the consignment is in the scope of the sanctions and therefore needing a control. These goods would be under customs supervision until they exit the customs territory of the Union (see Article 267(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council, of 9 October 2013, laying down the Union Customs Code).

41. **Is it required for EU companies to seek authorisation for the export of an item on Annex I of the EU Dual-Use Regulation or an 'Advanced technology' item to a Russian end-user if the item is already in Russia?**
Last update: 16 March 2022

The controls in the Sanctions Regulation apply also to the "sale, supply or transfer" of dual-use and "Advance technology" items in addition to their export, including therefore, to the sale, supply or transfer of items already in Russia, for example where the items are held in inventory of an EU company in Russia (for example a branch of the EU company in Russia).

42. **Does the Sanctions Regulation affect the export of controlled goods shipped in transit through Russia by land to third countries?**
Last update: 2 October 2023

Yes. Articles 2(1a) and 2a(1a) of the Sanctions Regulation prohibit the transit via the territory of Russia of dual-use goods listed in Annex I to Regulation 2021/821 and advanced technology items listed in Annex VII to the Sanctions Regulation exported from the Union.

Articles 2(3a), 2(4a), 2a(3a) and 2a(4a) provide for five limited exemptions and four derogations from the prohibition to transit through Russia applicable to dual-use goods and advanced technology items. The exemptions under Articles 2(3a) and 2a(3a) cover:

- Humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment or as a response to natural disasters;
- Medical or pharmaceutical purposes;
- Temporary export of items for use by news media;
- Software updates; and
- Use as consumer communication devices.

The derogations available in Articles 2(4a) and 2a(4a) apply to:

- Intergovernmental cooperation in space programmes;
- Operation, maintenance, fuel retreatment and safety of civil nuclear capabilities, as well as civil nuclear cooperation, in particular in the field of research and development;
- Maritime safety; and
- Cyber-security and information security for natural and legal persons, entities and bodies in Russia except for its government and undertakings directly or indirectly controlled by that government.

43. To what extent do the sanctions measures affect my business transactions with companies incorporated in the EU, but which are directly or indirectly owned or controlled by Russian persons or entities?
Last update: 16 March 2022

The export restrictions pursuant to the Sanctions Regulation do not apply to transactions strictly within the EU between companies established in the EU. For details on contracts with EU-incorporated entities linked to listed persons or entities, see also question 35.

Separately from the Sanctions Regulation, certain Russian persons and entities are targeted by individual financial restrictions, e.g. in Council Regulation (EU) No 269/2014. These restrictions include an asset freeze and a prohibition to make funds or economic resources available, directly or indirectly, to those listed persons and entities.

Making funds or economic resources available to non-listed entities which are owned or controlled by a listed person or entity (including payments in exchange for goods) will in principle be considered as making them indirectly available to the latter, unless it can be reasonably determined, on a case-by-case basis using a risk-based approach, taking into account all of the relevant circumstances, that the funds will not reach the listed person or entity. Making funds or economic resources available to a third-party intermediary is also prohibited, if those assets would be for the benefit of the listed person or entity. In all situations, EU exporters should perform adequate due diligence on their business partners and the final destination of funds or economic resources.

EU exporters are furthermore prohibited from participating, knowingly and intentionally, in activities the object or effect of which is to circumvent these restrictions.

44. **To what extent EU exporters should ensure that no sanctioned entity or person is involved in any way in their business operations? Should they go beyond first tier suppliers and customers?**
Last update: 10 October 2022

See Section 2. 'Circumvention and Due Diligence' of the Commission FAQs on the implementation of Council Regulation No 833/2014 and Council Regulation No 269/2014, in particular: questions No 1-2; 4; 6. EU exporters can also seek the advice and support of National Competent Authorities to ensure compliance with EU restrictive measures as well as to obtain information on specific business situations.

45. **Do I need to take specific measures towards my employees who are Russian nationals and are working in the EU? Should the EU entities block the transfer of and access to knowledge related to the products and technology covered by the new sanctions to Russia?**
Last update: 16 March 2022

Release of controlled technology (including knowledge or intangible items) to foreign persons is a kind of Intangible Technology Transfer also known as a "deemed export".

Articles 2 and 2a of the Sanctions Regulation prohibit to sell supply, transfer or export, direct or indirectly, goods and technology subject to the measures to any natural or legal person, entity or body in Russia or for use in Russia. The requirements for the control of technical assistance also extends the control to foreign nationals in the EU. Therefore, companies should restrict the access of Russian staff to such knowledge or technology if such knowledge and technology would be used in Russia.

46. **How does the EU ensure and verify that EU exports of items covered by the Sanctions Regulation to third countries are not re-exported to Russia?**
Last update: 2 October 2023

EU operators should have in place adequate due diligence procedures to ensure that their exports of covered items are not diverted to Russia. This could include, for instance, contractual clauses with their third-country business partner giving rise to liability in case the latter re-exports the items to Russia, as well as ex post verifications.

It is for Member States to implement and enforce sanctions. The Commission monitors sanctions' implementation and enforcement by Member States. If a covered item exported from the EU to a third country is re-exported to Russia, the competent authorities may consider the EU exporter's failure to conduct adequate due diligence as a breach of the Sanctions Regulation. If the EU exporter knowingly and intentionally fails to conduct such due diligence, this can be

considered as participation in a circumvention scheme.

Moreover, the Commission services, in coordination with international partners, have identified a number of dual-use goods and advanced technology items whose export to Russia is prohibited under Regulation 833/2014 used in Russian military systems found on the battlefield in Ukraine or critical to the development, production or use of those Russian military systems. These items include electronic components such as integrated circuits and radio frequency transceiver modules, as well as items essential for the manufacturing and testing of electronic components of printed circuit boards retrieved from the battlefield.

These battlefield items have been grouped into a list of Common High Priority Items, which can be found in Annex II to this FAQ. The List may support due diligence and effective compliance by exporters and targeted anti-circumvention actions by customs and enforcement agencies of partner countries determined to prevent that their territories are being abused for circumvention of EU sanctions purposes.

47. Is Turkey obliged to implement equivalent controls and/or anti-circumvention measures due to its Customs Union with the EU?
Last update: 16 March 2022

The territorial scope of the Sanctions Regulation is limited to the EU. The existence of a customs union between Turkey and the Union does not imply an automatic extension of the territorial scope of the sanctions – this has not been provided in the EU-Turkey Customs Union Agreement. The latter provides that Turkey has an obligation to align with measures with the Common Commercial Policy of the Customs Union. Conversely, as the sanctions have a legal basis related to the EU's Common Foreign and Security Policy, they do not to fall under Turkey's commitment to align its measures with Common Commercial Policy in the Customs Union. In that respect, Turkey is treated like any other third country that does not apply the same sanctions as the EU.

48. I am based in Northern Ireland, can I continue to export to Russia items covered by the Sanctions Regulation?
Last update: 16 March 2022

Under the Northern Ireland Protocol, and specifically section 47 of Annex 2 thereto, sanctions based on Article 215 TFEU apply automatically also to Northern Ireland in so far as they concern trade in goods. This means that the restrictions under the Sanctions Regulation relating to trade in goods apply also to trade between Northern Ireland and Russia.

In addition, the general rules on the scope of application of the Sanctions Regulation under Article 13 apply.

49. Will there be compensation for companies exporting covered items to Russia as a

result of these measures?
Last update: 16 March 2022

The Sanctions Regulation does not provide for compensation for companies exporting covered items to Russia.

50. What documentation needs to accompany a shipment of goods to ensure that it is not stopped on the way by the customs?
Last update: 10 October 2022

The export and re-export of goods from the EU to a non-EU country are subject to customs formalities, i.e. they have to be accompanied by certain customs documents. Thus, Union goods to be exported to Russia, or non-Union goods to be re-exported to Russia have to be covered by an export or a re-export declaration, respectively.

Where the goods fall within the scope of the sanctions against Russia and their movement is subject to an export authorisation in accordance with the Sanctions Regulation, the exporter has to possess an authorisation also in that respect, accompanied by the customs declaration.

Where certain goods or shipments are exempted from the sanctions in place and the Sanctions Regulation does not provide for specific supporting documentation as proof of the exemption, the form or type of such supporting documentation may be determined by national competent authorities. Therefore, the economic operators concerned are strongly recommended to consult with their competent authorities, in order to identify the documents which need to accompany the shipments of goods affected by the Sanctions Regulation.

WORK WITH PARTNER COUNTRIES

51. Your approach has been closely aligned with the United States, do you expect other countries to become "partner countries"?
Last update: 16 March 2022

The scope of export restrictions has been closely coordinated with those countries that are expected to apply substantially equivalent trade measures. This is the case in particular for the U.S., where our cooperation builds on our engagement in the framework of the EU-U.S. Trade and Technology Council. Our cooperation has been stepped up following the adoption of the measures in order to ensure adequate coordination and a level playing field for EU and U.S. companies.

The Sanctions Regulation contains a list of partner countries that may be amended to add other countries that have substantially equivalent trade measures.

52. Who are the partner countries and what benefits do they enjoy pursuant to the Regulation?

Last update: 26 July 2024

For the purpose of these measures, 'partner countries' are countries that are applying a set of export restriction measures substantially equivalent to those set out in the Sanctions Regulation. The list of partner countries is annexed to the Regulation and as of 24 July 202, it includes the U.S., Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Norway, Switzerland, Liechtenstein and Iceland. The Commission will keep reviewing the measures adopted by third countries and maintaining close contacts with them with a view to ensuring effective sanctions.

The concept of "partner country" has several dimensions related to Articles 2 and 2a of the Sanctions Regulation:

Firstly, entities owned or controlled by an undertaking of a partner country are eligible for the same exception as those owned or controlled by an undertaking of a Member State. As a result, Member States may authorise the sale, supply, transfer or export of covered goods and technology or the provision of related technical or financial assistance to these undertakings, provided that it is not intended for military use or for a military end user.

Secondly, Member States may authorise the sale, supply, transfer or export of covered goods and technology, or the provision of related technical or financial assistance intended for the diplomatic representations of partner countries located in Russia.

Thirdly, the EU will exchange information with partner countries, where appropriate, and on the basis of reciprocity, with a view to supporting the effectiveness of export restrictions under the Sanctions Regulation and the consistent application of export restriction measures applied by partner countries.

53. Is the US exempting the EU from its extraterritorial export controls?

Last update: 16 March 2022

The U.S. has waived its so-called Foreign Direct Product Rule (section 734.9 of the EAR) and *de-minimis* rule (section 734.4(a) of the EAR) for the Advanced Technology items listed in Annex VII. The U.S. also waived the FDPR in the case of Dual-use items.

Furthermore, the U.S. will not apply extraterritorial controls to items, where the controlled item included in Annex VII is the principal element of the exported item but the exported item itself is not covered by the Sanctions Regulation, provided that the national competent authority exercises due diligence set out in Article 2(7) and Article 2a(7) of the Sanctions Regulation.

OTHER MISCELLANEOUS QUESTION

54. Is Belarus covered by the Sanctions Regulation?

Last update: 16 March 2022

No. The additional sanctions imposed on Belarus including further restrictions on trade are set out in Council Regulation (EU) 2022/355 of 2 March 2022 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus. These, however, largely mirror the approach set out above.

Annex I – Indicative temporary correlation table for items listed in Annex VII of the Sanctions Regulation

ANNEX VII TO REGULATION (EU) 2022/1904

TARIC MEASURES

Integrated tariff of the Community (TARIC), held in a Commission database, contains import and export measures applicable to specific goods, such as tariff suspensions, tariff quotas, tariff preferences, anti-dumping duties, quantitative restrictions, embargoes but also export controls.

By integrating and coding these measures, the TARIC secures their uniform application by all Member States and gives all economic operators a clear view of all measures to be undertaken when importing into the EU or exporting goods from the EU.

Regarding the items included in Annex VII of the Regulation (EU) 833/2014 and its amendments, TARIC measures at 8-digit level have been made available on 4 March to the concerned authorities and the stakeholders.

CORRELATION TABLE

The Correlation Table links the goods in Annex VII with the corresponding commodity codes as defined under the rules of the Common Customs Tariff and Combined Nomenclature (CN). The corresponding 8-digit CN codes define the customs classification of the goods and the codes to be entered in the customs declaration.

This correlation table is not binding and is provided without prejudice to the obligations of the economic operator under export controls and restrictive measures, which will be checked, in particular, when lodging of the customs declaration.

It should be noted that, in many cases, the list of CN codes in the Correlation Table is not sufficient. Additional technical assessment is necessary for drawing conclusions as to whether a good is subject to the measures. This additional assessment is necessary because, in many cases, the description of the CN code is not specific enough to correspond exactly to the control text of the items in Annex VII. It should be noted that this correlation table does not include the correlations to software, for the following reasons:

- the CN classification is not based on the content of the software but on its support (flash - drive, DVD, etc.);
- software is often exported as part of related equipment or products, and therefore the CN

code to be declared by the exporter is the one that relates to the equipment or products;
- most of the times software is not sent to the recipient through Customs but through the cloud, or by means any computing server.

It should also be noted that this correlation table does not include the correlations to technology, since the export of intangible items is not declared at Customs.

The CN codes are taken from the Combined Nomenclature as defined in Article 1(2) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the 2023 Common Customs Tariff and as set out in Annex I thereto, which are valid at the time of publication of the Sanctions Regulation. The Correlation Table will be revised, when appropriate, in light of revisions to the list of goods in Annex VII and/or of the corresponding commodity codes.

For greater clarity, major components include any assembled elements, which form a portion of an end item without which the end item is inoperable.

CORRELATION TABLE (ANNEX VII) [Access here**]**

Last update: 26 July 2024

Annex II – List of Common High Priority Items

Last update: 22 February 2024

The EU and its international partners responded to Russia's war of aggression against Ukraine on 24 February 2022 with massive and comprehensive restrictive measures. The sectoral sanctions aim at curtailing Russia's ability to wage the war, depriving it of critical technologies and markets and significantly weakening its industrial base.

These sanctions against Russia have sharpened and extended export controls on dual-use goods and advanced technology items to target sensitive sectors in Russia's military industrial complex and to limit its access to crucial advanced technology.

The European Commission services, in coordination with the competent authorities in the US, the UK and Japan, have identified several dual-use goods and advanced technology items used in Russian military systems found on the battlefield in Ukraine or critical to the development production or use of those Russian military systems. These items include electronic components such as integrated circuits and radio frequency transceiver modules, as well as items essential for the manufacturing and testing of the electronic components of the printed circuit boards, and manufacturing of high precision complex metal components retrieved from the battlefield.

These battlefield items have been grouped into a list of Common HighPriority Items, which can be found in the Annex to this Guidance Note. The List may support due diligence and effective compliance by exporters and targeted anti-circumvention actions by customs and enforcement agencies of partner countries determined to prevent that their territories are being abused for circumvention purposes.

The List of Common High Priority Items is divided into four Tiers containing a total of 50 (Harmonised System codes) dual-use and advanced technology items sanctioned under the Russia Sanctions Regulation and involved in Russian weapons system used against Ukraine, including e.g. the Kalibr cruise missile, the Kh-101 cruise missile, the Orlan-10 UAV and the Ka-52 "Alligator" helicopter.

The list is divided into four Tiers:

- **Tier 1** comprises four HS codes which describe integrated circuits (also referred to as microelectronics).
- **Tier 2** comprises five HS codes containing electronics items related to wireless communications, satellite-based radio-navigation and passive electronic components.
- **Tier 3** is itself divided in two sets:
    - Tier 3.A, which comprises 16 HS codes containing discrete electronic components, electrical plugs and connectors, navigation equipment and digital cameras.
    - Tier 3.B, which lists nine HS codes used to export mechanical and non-electronic components, such as bearings and optical components.
- **Tier 4** is divided in two sets:
    - Tier 4.A., which includes 11 HS codes concerning manufacturing equipment for production and quality testing of electric components and circuits.
    - Tier 4.B, which lists 5 HS codes concerning Computer Numerical Control (CNC) machine tools for the manufacturing of complex high precision metal components.

The List is not static and will be periodically adjusted in the light of what is found in Russian military systems on the battlefield and Russia's use of sanctioned sensitive items. It replaces the previous September 2023 version.

TIER 1

HS code (4)	Text
8542.31	Electronic integrated circuits: Processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing

	circuits, or other circuits
8542.32	Electronic integrated circuits: Memories
8542.33	Electronic integrated circuits: Amplifiers
8542.39	Electronic integrated circuits: Other

TIER 2

HS code (5)	Text
8517.62	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
8526.91	Radio navigational aid apparatus
8532.21	Other fixed capacitors: Tantalum capacitors
8532.24	Other fixed capacitors: Ceramic dielectric, multilayer
8548.00	Electrical parts of machinery or apparatus, not specified or included elsewhere in chapter 85

TIER 3.A

HS code (16)	Text
8471.50	Processing units other than those of subheading 8471 41 or 8471 49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
8504.40	Static converters
8517.69	Other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network
8525.89	Other television cameras, digital cameras and video camera recorders

8529.10	Aerials and aerial reflectors of all kinds; parts suitable for use therewith
8529.90	Other parts suitable for use solely or principally with the apparatus of headings 8524 to 8528
8536.69	Plugs and sockets for a voltage not exceeding 1 000 V
8536.90	Electrical apparatus for switching electrical circuits, or for making connections to or in electrical circuits, for a voltage not exceeding 1000 V (excluding fuses, automatic circuit breakers and other apparatus for protecting electrical circuits, relays and other switches, lamp holders, plugs and sockets)
8541.10	Diodes, other than photosensitive or light-emitting diodes (LED)
8541.21	Transistors, other than photosensitive transistors with a dissipation rate of less than 1 W
8541.29	Other transistors, other than photosensitive transistors
8541.30	Thyristors, diacs and triacs (excl. photosensitive semiconductor devices)
8541.49	Photosensitive semiconductor devices (excl. Photovoltaic generators and cells)
8541.51	Other semiconductor devices: Semiconductor-based transducers
8541.59	Other semiconductor devices
8541.60	Mounted piezo-electric crystals

TIER 3.B

HS code (9)	Text
8482.10	Ball bearings
8482.20	Tapered roller bearings, including cone and tapered roller assemblies
8482.30	Spherical roller bearings
8482.50	Other cylindrical roller bearings, including cage and roller assemblies
8807.30	Other parts of aeroplanes, helicopters or unmanned aircraft
9013.10	Telescopic sights for fitting to arms; periscopes; telescopes designed to form

	parts of machines, appliances, instruments or apparatus of this chapter or Section XVI
9013.80	Other optical devices, appliances and instruments
9014.20	Instruments and appliances for aeronautical or space navigation (other than compasses)
9014.80	other navigational instruments and appliances

TIER 4. A

HS code (11)	Text
8471.80	Units for automatic data-processing machines (excl. processing units, input or output units and storage units)
8486.10	Machines and apparatus for the manufacture of boules or wafers
8486.20	Machines and apparatus for the manufacture of semiconductor devices or of electronic integrated circuits
8486.40	Machines and apparatus specified in note 11(C) to this chapter
8534.00	Printed circuits
8543.20	Signal generators
9027.50	Other instruments and apparatus using optical radiations (ultraviolet, visible, infrared)
9030.20	Oscilloscopes and oscillographs
9030.32	Multimeters with recording device
9030.39	Instruments and apparatus for measuring or checking voltage, current, resistance or electrical power, with recording device
9030.82	Instruments and apparatus for measuring or checking semiconductor wafers or devices

TIER 4.B

HS code (5)	Text
8457.10	Machining centres for working metal
8458.11	Horizontal lathes, including turning centres, for removing metal, numerically controlled
8458.91	Lathes (including turning centres) for removing metal, numerically controlled (excluding horizontal lathes)
8459.61	Milling machines for metals, numerically controlled (excluding lathes and turning centres of heading 8458, way-type unit head machines, drilling machines, boring-milling machines, boring machines, and knee-type milling machines)
8466.93	Parts and accessories suitable for use solely or principally with the machines of headings 8456 to 8461, n.e.s.

3. MARITIME NAVIGATION OF GOODS AND TECHNOLOGY

RELATED PROVISION: ARTICLE 2; ARTICLE 2a; ARTICLE 3f OF COUNCIL REGULATION 833/2014

1. **Is there now a total ban of exports to Russia for marine navigation and radio communication equipment?**
   Last update: 26 April 2022

EU sanctions have put in place certain export restrictions applicable to 'advanced technology' items and these take the form of prohibitions. The items concerned fall under the scope of chapters 4 and 5 of the applicable Commission Implementing Regulation adopted in accordance with Article 35(2) of Directive 2014/90/EU[19]. These prohibitions are subject to limited exemptions and derogations.

Exemptions cover, among others, humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters.

There is a specific derogation for maritime safety that may apply to the exports of marine navigation and radio communication equipment. In this case, it is necessary to reach out to the relevant Member State competent authority to request an authorisation.

2. **When can a Member State competent authority grant a derogation based on maritime safety?**
   Last update: 26 April 2022

The derogations provided for in Articles 2(4)(d), 2a(4)(d) and 3f(4) for the sale, supply, transfer or export of the goods and technology intended for maritime safety are subject to prior authorisation from the relevant national competent authority, which can only be granted under strict and specific conditions.

The national competent authorities are in charge of determining which documentation is necessary to assess and verify that the conditions for granting a derogation are met.

Maritime safety can be defined as the safety of life, health, property and the environment against environmental and operational risks associated with navigation. Accordingly, a derogation may be granted if a ship is in need of assistance and/or seeking a place of refuge[20], if a ship in a Member State's port or territorial waters cannot safely continue its voyage without the necessary equipment, or again if it needs regular software updates of nautical charts as required by SOLAS chapter V (Regulation 27).

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[19] Currently in force: Commission Implementing Regulation (EU) 2021/1158 of 22 June 2021 on design, construction and performance requirements and testing standards for marine equipment and repealing Implementing Regulation (EU) 2020/1170, OJ L 254, 16.7.2021, p. 1–291.

[20] See POR Operational Guidelines, http://www.emsa.europa.eu/we-do/safety/places-of-refuge/download/5121/2646/23.html

3. **What information should be provided when requesting an authorisation?**
   Last update: 26 April 2022

If the intended end-use of the marine navigation and radio communication equipment falls under the scope of maritime safety, the exporter may apply for an authorisation and a case-by-case assessment is made by the competent authority of the Member State in which the exporter is resident or established. This is also applicable for the related technical or financial assistance.

The request for authorisation should be submitted by electronic means. Annex IX to Regulation (EU) 833/2014 provides forms containing the mandatory elements for these notifications or applications and whenever possible, exporters should use these forms. However, when the use of the form is not possible, exporters shall provide at least all the elements described in the form and in the order provided set out in the forms. If the item is covered by the EU Dual-Use Regulation, exporters must also submit the form(s) pursuant to that Regulation to the national competent authority.

4. **Is it possible to provide training on goods subject to export restrictions to Russian seafarers or seafarers in Russia who are working for non-Russian entities on vessels with non-Russian ownership outside of Russia?**
   Last update: 26 April 2022

It is prohibited to sell, supply, transfer or export certain maritime navigation goods and technology (Paragraph 1 of Article 3f of Regulation 833/2014). It is prohibited to provide related technical assistance, brokering services or other services related to these goods and technology, directly or indirectly, to any natural or legal person, entity or body in Russia, or for use in Russia (Paragraph 2(a) of Article 3f of that Regulation).

Article 1(c) of Regulation 833/2014 defines technical assistance as “any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance”.

Accordingly, it is prohibited to provide training for any goods and technology falling under the scope of Article 3f to seafarers physically located in Russia, as well as to seafarers who would put such training to use in Russia. By virtue of the non-circumvention clause (laid down in Article 12) it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation.

Provision of technical assistance related to these maritime navigation goods and technology to Russian nationals outside of Russia is not prohibited, unless there is evidence that such technical assistance would be used in Russia.

4. LUXURY GOODS

RELATED PROVISION: ARTICLE 3h OF COUNCIL REGULATION 833/2014

1. **How is the EUR 300 value to be assessed?**
   Last update: 2 May 2022

The EUR 300 value is to be assessed based on the statistical value of the goods in the export declaration (data element 99 06 000 000 or 8/6 or Box 46 of the Single Administrative Document (SAD)). The statistical value is defined in section 10 of Annex V of Commission Implementing Regulation (EU) 2020/1197 as the price actually paid or payable for the exported goods, excluding arbitrary or fictitious values. It must be adjusted, where necessary, in such a way that the statistical value contains solely and entirely the incidental expenses, such as transport and insurance costs, incurred to deliver the goods from the place of their departure to the border of the Member State of export. VAT is not to be included in the statistical value.

[NEW] The calculation of statistical value and its indication in the export customs declaration is the same as already used and required, and is not affected by the Sanctions Regulations, but only used as a basis to decide whether the sanction is applicable or not.

2. **What is to be understood by "item"?**
   Last update: 2 May 2022

Item is to be understood as the "supplementary unit" in the export declaration (data element 18 02 000 000 or 6/2 or Box 41 of the SAD). Customs legislation defines the supplementary unit as the quantity of the item in question, expressed in the unit laid down in Union legislation, as published in TARIC.

For goods that do not have a supplementary unit in TARIC, the information on "number of packages" (data element 18 06 004 000 or 6/10 or Box 31 of the SAD) could be used to check the threshold. Customs legislation defines packages as the smallest external packing unit. The number of packages to be stated in an export declaration refers to the individual items packaged in such a way that they cannot be divided without first undoing the packing, or the number of pieces, if unpackaged. The codes to be stated follow the UNECE recommendation on the matter. The UNECE recommends recording the "immediate wrapping or receptacle of the goods, which the purchaser normally acquires with them in retail sales".

Accordingly, an item means usual packaging for retail sale, e.g. a package of 3 bottles of perfume if they are sold together, or a bottle of perfume if it is meant to be sold separately.

Pursuant to Article 15 of the Union Customs Code, the persons providing information to the customs authorities are responsible for the accuracy and completeness of the information provided. If necessary, the customs authorities may require additional information (invoices, physical controls) to verify the information stated in the customs declaration and whether or not the threshold is reached.

3. **Does the ban apply to goods that originate from non-EU countries and transit via the EU towards Russia, including when the originating countries have not decided similar sanctions themselves?**

Last update: 2 May 2022

Yes, the prohibition on the transfer of luxury goods to any natural or legal person, entity or body in Russia or for use in Russia applies to the transit via the EU territory of those luxury goods. Often, the transfer would involve the transportation of the goods, which is itself prohibited by the transfer prohibition.

4. **Does the ban apply to goods originating in the EU transiting through Russia towards further destinations such as Central Asia?**
   Last update: 2 May 2022

In principle, the ban would not apply here. However, the goods must be genuinely destined to a third country and for use outside Russia. Therefore, EU operators should have in place adequate due diligence procedures to ensure that their exports are not diverted to Russia – especially in case of transshipments via Russia. This could include, for instance, contractual clauses with their third-country business partners giving rise to liability in case the latter re-export the items to Russia, as well as ex post verifications. Please also note that under Article 12, EU operators cannot willingly or intentionally circumvent the prohibitions in place.

5. **Can goods of over 300€ already imported in Russia be sold?**
   Last update: 2 May 2022

Article 3h of *Regulation (EU) No 833/2014* as amended by *Regulation (EU) 2022/428* prohibits the sale, supply, transfer or export, directly or indirectly, of luxury goods. The prohibition is therefore broader than exports. Article 13, which sets out the jurisdictional scope of the restrictive measures laid down in *Regulation (EU) No 833/2014* provides that these do not only apply in the territory of the Union but also to any national of a Member State, and to any legal person incorporated or constituted under the law of a Member State, irrespective of where that person or legal person is.

Accordingly:

- EU nationals or EU companies are prohibited from providing luxury goods as defined in Article 3h of *Regulation (EU) No 833/2014* to a person in Russia or for use in Russia even if the goods have already been imported in the country.
- EU operators are furthermore prohibited from participating, knowingly and intentionally, in activities the object or effect of which is to circumvent these export restrictions.
- However, EU sanctions do not apply extra-territorially. Therefore, if the bottles have been imported by a Russian person or company before the imposition of sanctions and are now being sold in Russia by these companies, the prohibition would not apply.
- Note that there is also an exception applying to goods which are necessary for the official purposes of diplomatic or consular missions of Member States or partner countries in Russia, or of international organisations enjoying immunities in accordance with international law. The exception also applies to the personal effects of their staff.

6. **What is the purpose of the derogation introduced for the transfer and export of cultural goods (Article 3h(4))?**
   Last update: 2 May 2022

The EU sanctions on luxury goods transferred or exported from the EU to Russia are not meant

to hamper cultural cooperation with Russia. A clarification is introduced for the safe and prompt return to Russia of cultural goods, such as works of art, which are on loan in the EU in the context of formal cultural cooperation with Russia.

7. **How will national authorities grant the derogation in Article 3h(4)?**
   Last update: 2 May 2022

In order to allow for the swift return of cultural goods to Russia, an authorisation must be granted by the national competent authority. This authorisation can be granted at any moment, but at the latest before the goods leave the Union's territory. This will allow the national customs authorities at the Russian border to verify that the export is duly authorised.

8. **Point 17) of Annex XVIII refers to a list of vehicles and appliances and "accessories and spare parts" of those. What is the scope of "accessories and spare parts"? Does it apply to accessories and spare parts of vehicles of a value of EUR 50 000 or below? What is the value threshold applicable to these accessories and spare parts?**
   Last update: 2 May 2022

Article 3h of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 of 15 March 2022 provides for the prohibition to sell, supply, transfer or export goods listed in Annex XVIII of the same Regulation to any natural or legal person, entity or body in Russia or for use in Russia. The same article establishes that such a prohibition shall apply to the goods listed insofar as their value exceeds EUR 300 per item unless otherwise specified in the Annex.

Point 17) of Annex XVIII refers to vehicles, except ambulances, for the transport of persons on earth, air or sea of a value exceeding EUR 50 000 each, teleferics, chairlifts, ski-draglines, traction mechanisms for funiculars, motorbikes of a value exceeding EUR 5 000 each, as well as their accessories and spare parts.

In relation to the accessories and spare parts, the above mentioned provision and annex should be applied as follows:

- accessories and spare parts of a value of or below EUR 300 per item are not subject to the restrictions provided for in Article 3h
- accessories and spare parts listed in point 17 of Annex XVIII of a value exceeding EUR 300 that are not intended for the use of the vehicles and appliances also listed there are not subject to the restrictions provided for in Article 3h. This means, i.e. that the prohibition does not apply to accessories and spare parts of vehicles of a value of EUR 50 000 or below.
- accessories and spare parts listed in point 17 of Annex XVIII of a value exceeding EUR 300 that are intended for the use of the vehicles and appliances listed there are subject to the restrictions provided for in Article 3h.

9. Has the 11th sanctions package removed products from the ban on luxury goods?
Last update: 26 July 2023

Regulation 1214/2023 of 23 June 2023 ("11th sanctions package") made changes to Annex XVIII by removing certain products which are covered by different annexes (Annex VII and Annex XXIII). In other words, while certain products have been removed from the Annex XVIII

on luxury goods, trade in them continues to be restricted under Council Regulation (EU) No 833/2014 under a different annex.

10. What did the 11th sanctions package change to the export ban on luxury cars?

Last update: 26 July 2023

Most luxury cars bans have been moved from Annex XVIII to Annex XXIII and continue to be subject to an export ban. Car parts under tariff lines that were previously subject to a luxury ban under Annex XVIII (if they were integrate a vehicle above EUR 50 000) continue to be banned.

However, the new notion for the luxury vehicles included in Annex XXIII uses the size of the engine as a threshold, rather than the declared customs value (which was prone to fraud/under valuation in the customs declaration), in the case of internal combustion engines. This was done to improve compliance by making the definition of the sanctioned good dependent on a verifiable physical characteristic of the good.

The threshold of cylinder capacity 'above 1 900 cm^3' on internal combustion engines approximates as closely as possible the previous EUR 50 000 threshold. This engine size covers internal combustion motor cars exported above EUR 50 000. It does not create a full ban on less powerful middle-value or low value cars which typically have a value below EUR 50 000: CN 870321 (petrol cars with engines below 1 000 cm^3) and 870331 (diesel cars with engines below 1 500 cm^3) are not included in Annex XXIII.

In addition, there is a full ban for exports of electric and hybrid vehicles, regardless of power specifications.

However, not all vehicles are moved from Annex XVIII to Annex XXIII. For example, code 8702 00 00 (Motor vehicles for the transport of ten or more persons, including the driver, i.e. buses and mini-buses) continues to be listed in Annex XVIII.

11. What happened to codes CN 401130 and CN 84110000 in the 11th sanctions package?

Last update: 26 July 2023

Regulation 1214/2023 of 23 June 2023 ("11th sanctions package") removed codes CN 401130 (tyres for aircrafts) and CN 84110000 (Turbojets, turbopropellers and other gas turbines) from Annex XVIII as they are banned under Annex XI (List of goods and technologies referred to in Article 3c(1)), irrespective of their value.

12. Why is there a ban on technical assistance, brokering services, financing and financial assistance?

Last update: 26 July 2023

Article 3h of Council Regulation (EU) No 833/2014 provides for the prohibition to sell, supply, transfer or export goods listed in Annex XVIII of the same Regulation to any natural or legal person, entity or body in Russia or for use in Russia. Council Regulation (EU) 1214/2023 of 23 June 2023 ("11th sanctions package") adds to this export ban prohibitions to provide technical

assistance, brokering services, financing and financial assistance. These provisions are meant to avoid that EU operators who cannot export the goods subject to an export ban support a third county in obtaining, manufacturing, repairing, maintaining etc. the goods on its own.

5. IMPORT, PURCHASE AND TRANSFER OF LISTED GOODS

RELATED ARTICLES: ARTICLE 3g, ARTICLE 3i and ARTICLE 3o OF COUNCIL REGULATION NO. 833/2014

1. **Is the purchase of goods listed in Annexes XVII and XXI of Council Regulation No. 833/2014 by an EU company allowed when the goods are destined for a third country and are not transiting Union territory?**
   Last update: 26 July 2023

No. Articles 3g and 3i of Council Regulation No. 833/2014 prohibit the purchase, import, or transfer, directly or indirectly, of the goods listed in Annexes XVII and XXI if they originate in Russia or are exported from Russia. The prohibition on purchase applies irrespective of the final destination of the goods. Provided the purchase falls within the scope of Article 13 of Regulation 833/2014, it is not relevant whether the goods are destined for the EU or not. This supports the aim of the sanctions which is to significantly weaken Russia's economic base, depriving it of critical markets for its products and to significantly curtail its ability to wage war. Any other interpretation would render the prohibition largely devoid of purpose and create significant loopholes.

Please note that the situation is different for the purchase of Russian seaborne crude oil (question n°15 of the FAQ on “oil imports”).

2. **Is the transfer of goods listed in Annexes XVII and XXI of Council Regulation No. 833/2014 by an EU company allowed when the goods are destined for a third country and are not transiting Union territory?**
   Last update: 26 July 2023

No. Articles 3g and 3i of Council Regulation No. 833/2014 prohibit the purchase, import, or transfer, directly or indirectly, of the goods listed in Annexes XVII and XXI if they originate in Russia or are exported from Russia. The prohibition on transfer applies irrespective of the final destination of the goods, whereas the prohibition on the import applies by nature to goods moving “into the Union”. Provided the transfer falls within the scope of Article 13 of Council Regulation No. 833/2014, it is not relevant whether the goods are destined for the EU or not. This supports the aim of the sanctions which is to significantly weaken Russia's economic base, depriving it of critical markets for its products and to significantly curtail its ability to wage war. Any other interpretation would render the prohibition largely devoid of purpose and create significant loopholes.

However, the Union is committed to avoiding that its sanctions impact food and energy security of third countries around the globe, in particular of the least developed ones. In light of this commitment, which is clearly stated in recitals 11 and 12 of Council Regulation No. 2022/1269, the transfer to third countries of certain goods listed in Annex XXI should be allowed “to combat food and energy insecurity around the world” and “in order to avoid any potential negative consequences therefor” in third countries.

In order to ensure energy security, transfer to third countries of specific energy-related goods, as well as the financing or financial assistance related to such transfer, carried out by EU operators should be allowed. Given their specific supply chains and the available transport options, such transfer should only be permitted from point to point (eg, from Russia to a third country), without transiting via the EU territory. The relevant goods are the following:

- Energy goods falling under CN codes 4401 (fuel wood) and 4402 (charcoal), as listed in Annex XXI
- All the following coal and related products listed in Annex XXI (previously listed in Annex XXII - as explained in recital 51 of Council Regulation 1214/2023 ("11th sanctions package") which entered into force on 24 June 2023, Article 3j and Annex XXII were deleted because the prohibition concerning coal imports is covered by Article 3i and Annex XXI of Regulation (EU) No 833/2014). These goods are:

CN Code	**Name of the good**
2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
2702	Lignite, whether or not agglomerated, excluding jet
2703 00 00	Peat (including peat litter), whether or not agglomerated
2704 00	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon
2705 00 00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons
2706 00 00	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars
2707	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents
2708	Pitch and pitch coke, obtained from coal tar or from other mineral tars

Recital 12 of Council Regulation No. 2022/1269 further clarifies that EU sanctions "do not target in any way the trade in agricultural and food products, including wheat and fertilisers, between third countries and Russia". It follows that the transfer to third countries, as well as the financing or financial assistance related to such transfer, carried out by EU operators or via the EU territory (including in transit) should not in any way be hindered for the following goods:

- Fertilisers falling under CN codes 310420, 310520; 310560; ex31059020 and ex31059080 related, as listed in Annex XXI;
- Animal feed falling under CN code 2303, as listed in Annex XXI.

The above is without prejudice to the guidance on transit of goods to and from Kaliningrad and to the ability of Member States to take the necessary measures to protect their national security interests.

3. **Does "purchase" or "transfer" also refer to restricted goods that are already released for free circulation within the territory of the Union before the restrictive measures?**
   Last update: 26 July 2023

No. The restrictions envisaged in Articles 3g, 3i, 3m and 3p of Council Regulation No. 833/2014 do not concern goods which are already released for free circulation within the territory of the Union (i.e. usually already placed on the market) at the time when the respective measure becomes applicable.

4. **What is the scope of the prohibition on relevant services (e.g. financial assistance, including brokering or insurance) as stated in Articles 3g and 3i of Council Regulation No. 833/2014 for the transport or transfer of goods or products listed in Annexes XVII or XXI to third countries?**
   Last update: 26 July 2023

The provision of insurance, brokering services or other financing or financial assistance by EU operators for the transport or transfer of good or products listed in Annexes XVII or XXI to third countries is prohibited. Regardless of whether the transfer of these goods or products is performed by an EU or a non-EU operator, where the provider of assistance related to such a shipment is an EU operator, they remain bound by the prohibition.

However, the Union is committed to avoiding that its sanctions impact food and energy security of third countries around the globe, in particular of the least developed ones. In light of this commitment, which is clearly stated in recitals 11 and 12 of Council Regulation No. 2022/1269, the transfer to third countries of certain goods listed in Annex XXI should be allowed "to combat food and energy insecurity around the world" and "in order to avoid any potential negative consequences therefor" in third countries.

In order to ensure energy security, transfer to third countries of specific energy-related goods, as well as the financing or financial assistance related to such transfer, carried out by EU operators should be allowed. Given their specific supply chains and the available transport options, such transfer should only be permitted from point to point (eg, from Russia to a third country), without transiting via the EU territory. The relevant goods are the following:

- Energy goods falling under CN codes 4401 (fuel wood) and 4402 (charcoal), as listed in Annex XXI
- All the following coal and related products listed in Annex XXI (previously listed in Annex XXII - as explained in recital 51 of Council Regulation 1214/2023("11th sanctions package") which entered into force on 24 June 2023, Article 3j and Annex XXII were deleted because the prohibition concerning coal imports is covered by Article 3i and Annex XXI of Regulation (EU) No 833/2014). These goods are:

CN Code	Name of the good

2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
2702	Lignite, whether or not agglomerated, excluding jet
2703 00 00	Peat (including peat litter), whether or not agglomerated
2704 00	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon
2705 00 00	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons
2706 00 00	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars
2707	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents
2708	Pitch and pitch coke, obtained from coal tar or from other mineral tars

Recital 12 of Council Regulation 2022/1269 further clarifies that EU sanctions "do not target in any way the trade in agricultural and food products, including wheat and fertilisers, between third countries and Russia". It follows that the transfer to third countries, as well as the financing or financial assistance related to such transfer, carried out by EU operators or via the EU territory (including in transit) should not in any way be hindered for the following goods:

- Fertilisers falling under CN codes 310420, 310520; 310560; ex31059020 and ex31059080 related, as listed in Annex XXI;
- Animal feed falling under CN code 2303, as listed in Annex XXI.

The above is without prejudice to the guidance on transit of goods to and from Kaliningrad and to the ability of Member States to take the necessary measures to protect their national security interests.

5. **Does a purchase, import or transfer restriction in Council Regulation No. 833/2014 which provides for an exception allowing the execution of a prior contract until a specified date allow for the payment on the basis of such contract by the EU operator to its Russian counterpart after this date?**
   Last update: 26 August 2022

It is the Commission's view that an exception to a purchase, import or transfer restriction allowing for the execution of prior contracts until a specified date would not allow for a payment to be made to the Russian counterpart beyond that date. Since the payment is part of the execution of the contract, EU operators are prohibited from making such a payment thereafter, even if the goods originating in Russia have already been received. Questions on the concrete application of EU sanctions in specific cases should be addressed to the relevant national competent authority.

6. **What is the scope of 'import of goods in the Union' in the context of 'import' related prohibitions in Council Regulation No. 833/2014?**
   Last update: 21 December 2022

Sanctions regulations do not contain a specific definition of the notion of "import". Given the numerous, frequent and significant amendments to the sanctions provisions, particularly in the context of the Russian aggression in Ukraine, without prejudice to the Union Customs Code definitions and formalities applying in other areas, the conditions for determining the legal import into the Union of a good **as regards sanctions** should be assessed in relation to the time the goods are brought into the Union and presented to customs, regardless of the subsequent customs procedure these goods will be placed under. Indeed, unlike other import requirements, which are established in order to protect the internal market and EU consumers, and are thus assessed at the time of the goods' release for free circulation, the objective of the import restrictions in Council Regulation No. 833/2014 is to deprive Russia of income which it can use to finance its war in Ukraine.

Consequently, goods which lawfully entered the EU territory and were presented to customs (a) before the entry into force of the relevant sanctions restrictions, or (b) before the date of application of such restrictions (when a wind-down for the execution of existing contracts is foreseen, for instance) can be released to the EU importers.

However, in view of Article 12 of Council Regulation No. 833/2014, national competent authorities should not allow such a release of the goods if they have reasonable ground to suspect that doing so would constitute circumvention. Moreover, any subsequent payments related to the released goods have to comply with the applicable restrictive measures, in particular asset freezes provisions in Council Regulation No. 269/2014.

7. **Why did the EU introduce a gold import ban and what does it cover?**
   Last update: 27 July 2022

The G7 has agreed the necessity of co-ordinated action to further increase economic pressure on Russia. The gold ban further aligns EU sanctions with those of our G7 partners.

As of 22 July 2022, EU sanctions prohibit the direct or indirect import, purchase or transfer of gold, which constitutes Russia's most significant export after energy, pursuant to Article 3o of Regulation (EU) 833/2014. The prohibition applies to gold listed in Annex XXVI of the regulation, i.e. gold plated with platinum, unwrought or in semi-manufactured forms, in powder form, waste and scrap of gold including metal clad with gold but excluding sweepings containing other precious metals, and gold coins.

This prohibition applies to gold if it (i) originates in Russia and (ii) has been exported from Russia into the Union or to any third country after 22 July 2022. This implies that for such a good imported into the EU from 22 July 2022 and onwards not to be covered by the prohibition, the importer shall provide to customs authorities a proof that the good was exported from Russia before 22 July 2022. Therefore, this prohibition does not apply to e.g. gold of Russian origin already held by central banks, investors, companies or pension funds across Member States, if it was exported from Russia before 22 July 2022.

The prohibition also applies to financing, technical and other related assistance pursuant to Art. 3o paragraph 4 of the regulation.

8. **Is processed gold concerned by the prohibition?**
   Last update: 27 July 2022

Yes, the prohibition applies to processed gold according to Art. 3o paragraph 2 of the regulation, if it fulfils the following conditions: (i) products listed in Annex XXVI, (ii) processed in a third country and (iii) incorporating the products prohibited in paragraph 1 of Art. 3o, meaning gold originating in Russia listed in Annex XXVI and exported from Russia after 22 July 2022.

For such goods imported into the EU from 22 July 2022 and onwards not to be covered by the prohibition, the importer must provide to customs a proof that the export from Russia to the third country took place before 22 July 2022.

9. **Is gold jewellery included in the ban? Can I travel with golden jewellery to and from Russia?**
   Last update: 27 July 2022

Yes, import, purchase or transfer, directly or indirectly, into the Union, of golden jewellery originating in Russia and exported from Russia after 22 July 2022 is prohibited, pursuant to Art. 3o paragraph 3 and listed in Annex XXVII of the regulation.

The prohibition however does not apply to golden jewellery for personal use of natural persons travelling to the European Union or to members of their immediate families travelling with them, as long as it is owned by those individuals and not intended for sale. A similar exemption also applies to export of golden jewellery included in the luxury goods list in Annex XVIII of the regulation.

10. **Are there other exceptions to the gold ban?**
    Last update: 27 July 2022

The prohibition in Art. 3o also does not apply to gold which is necessary for the official purposes of diplomatic missions, consular posts or international organisations in Russia enjoying immunities in accordance with international law. Competent authorities of Member States may also authorise the transfer or import of gold that is designated as cultural goods, which are on loan in the context of formal cultural cooperation with Russia. The re-export of those temporarily imported gold cultural goods would also have to be subject to a subsequent authorisation for export by a competent authority, as per Article 3h paragraphs 1 and 4 of the regulation.

11. **How were the import bans amended in the 11th package?**
    Last update: 23 July 2023

Council Regulation 1214/2023 of 23 June 2023 ("11th sanctions package"), deleted the overlaps between the different parts of the list of iron and steel products in Annex XVII: 'Part A' was deleted while former 'Part B' of Annex remains. In addition, Parts A, B and C of Annex XXI were merged.

The specific transitional periods that applied to the different parts of the Annexes XVII and XXI of Regulation (EU) No 833/2014 and had expired, were removed:

- execution until 17 June 2022 of contracts concluded before 16 March 2022 for certain iron and steel products listed in former Part A of Annex XVII (former paragraph 2 of Article 3g);
- execution until 8 January 2023 of contracts concluded before 7 October 2022 for certain iron and steel products listed in former Part B of Annex XVII (former paragraph 3 of Article 3g);
- execution until 10 July 2022 of contracts concluded before 9 April 2022 for goods listed in Part A of Annex XXI (former paragraph 3 of Article 3i);
- execution until 8 January 2023 of contracts concluded before 7 October 2022 for goods listed in Part B of Annex XXI (former paragraph 3b of Article 3i);
- execution until 27 May 2023 of contracts concluded before 26 February 2023 for goods listed in Part C of Annex XXI (former paragraph 3d of Article 3i);
- execution until 18 June 2023 of contracts concluded before 7 October 2022 for goods falling under CN code 2905 11 listed in Part B of Annex XXI (former paragraph 3ba of Article 3i).

As explained in recital 51 of Council Regulation 1214/2023 Article 3j and Annex XXII were deleted because the prohibition concerning coal imports is since then covered by Article 3i and Annex XXI of Regulation (EU) No 833/2014. The prohibition is therefore still in force, though under a different legal provision. The exceptions for the purchase, import or transport into the Union of coal and other solid fossil fuels, containing a transitional period until 10 August 2022 were deleted:

- Article 3ea (port access ban), paragraph 5, former point (e);
- Article 5aa (transaction ban), paragraph 3, former point (c);
- Article 5k (public procurement ban), paragraph 2, former point (f).

As explained in recital 51 of Regulation 1214/2023 the deletion of references to transitional periods which have already expired is not intended to have any legal effects on past or ongoing contracts or on the applicability of those transition periods.

12. Can Russian nationals temporarily bring personal goods listed in Annex XXI and subject to the prohibition in Art. 3i of Council Regulation 833/2014 into the Union, e.g. for touristic travels?
Last update: 22 December 2023

As per the case law of the European Court of Justice, sanctions need to be interpreted broadly, among other reasons in order to ensure effectiveness of the adopted prohibitions and avoid circumvention. It is for the national competent authorities to assess each situation and to implement the prohibitions accordingly.

Article 3i of Council Regulation 833/2014 prohibits the purchase, import, or transfer, directly or indirectly, of goods as listed in Annex XXI to the Regulation if they originate in Russia or are exported from Russia. Annex XXI lists a broad range of goods.

Council Regulation No. 2878/2023 of 18 December 2023 ("12th sanctions package"), introduced an exception for personal effects. This means that the import of certain goods owned by natural persons travelling to the Union and their immediate family members may be allowed if they are for the strict personal use of those individuals. This exception applies to listed goods which raise insignificant circumvention concerns, like personal hygiene items or clothing worn by travellers or contained in their luggage as they are manifestly not intended for sale.

National competent authorities should continue to apply the prohibition in a proportionate and reasonable manner.

13. **What is the situation for vehicles? Can I drive into the Union with my car registered in Russia?**
Last update: 22 December 2023

Article 3i of Council Regulation 833/2014 prohibits the purchase, import, or transfer, directly or indirectly, of goods as listed in Annex XXI to the Regulation if they originate in Russia or are exported from Russia. This includes motor vehicles (cars) falling under CN code 8703.The Council clarified with Council Regulation No. 2878/2023 of 18 December 2023 ("12th sanctions package") that the following cases are permissible:

- **Exemption for diplomatic cars**: The prohibition does not apply to the entry of cars with diplomatic license plates necessary for the functioning of diplomatic and consular representations, including delegations, embassies and missions, or of international organisations enjoying immunities in accordance with international law or for the personal use of their staff and their immediate family members (see paragraph 3ac);

- **Derogation for cars owned by EU citizens and their families**: National competent authorities may grant authorisations for the entry of cars owned by EU citizens or their immediate family members residing in Russia, provided they are driving the car into the Union for strict personal use and without intention to sell (see paragraph 3ab). An example is an EU citizen living in Russia visiting their home country by car for holidays.

Article 3g(1)(d) iron and steel products processed in third countries incorporating iron and steel inputs from Russia

Article 3g(1)(d) prohibits the import or purchase in the Union of products processed in a third country using iron and steel inputs originating in Russia.

A) GENERAL

1. **Does the ban under Article 3g(1)(d) apply to all iron and steel products?**
Last update: 2 October 2023

No. The restrictive measure under Article 3g(1)(d) applies only to iron and steel products as listed in Annex XVII when processed in a third country that incorporate iron and steel inputs originating in Russia as listed in Annex XVII. This corresponds to tariff headings 7206-7229 within Chapter 72, and the full Chapter 73.

For products listed in Annex XVII the third country where they have been processed prior to their import in the Union is not relevant. In all cases, it has to be proved that they do not incorporate those iron and steel inputs originating in Russia that are listed in Annex XVII.

Example 1: Fasteners (heading 7318) from a third country (e.g. China, India), manufactured from wire rod (e.g. 7221) originating from Russia intended for import into the Union.

The import in this example would be prohibited as both CN codes 7318 and 7221 are included in Annex XVII and the wire rod originates in Russia, unless covered by a specific exception or derogation.

Example 2: A product of Russian origin that is not a good listed in Annex XVII when it leaves Russia is then processed in a third country, such that the product then becomes a good listed in Annex XVII. Importing this into the Union is not prohibited, because the product now entering the Union has incorporated inputs with Russian origin that are not in Annex XVII.

For example, some pig iron (HS 7201) or steel scrap (HS 7204) leaves Russia and enters Country X. Here, it is transformed into slabs (HS 7207), before being imported into the Union.

The import in this example would not be prohibited.

Example 3: A product of Russian origin that is a good listed in Annex XVII when it leaves Russia is used as a component in a third country, such that the final product then becomes a good not listed in Annex XVII. Importing this into the Union is not prohibited, because the product now entering the Union is not listed in Annex XVII.

2. **Are reusable packaging, e.g. containers, made of iron and steel and containing other, non-prohibited goods, also subject to the prohibition in Art. 3g?**
   Last update: 2 October 2023

The prohibition applies to the goods declared in the customs declaration for the considered procedure. For example, items that can be considered as durable metal packaging, regularly used as part a standard business practice and are only meant to contain the goods that are to be imported, purchased or transferred should not be the subject of the prohibition in Article 3g.

However, if these items (e.g. empty containers) are themselves the object of the import (for example the importation of steel containers with the purpose of releasing them for free circulation), they are not mere packaging and are therefore subject to the prohibition.

National authorities should exercise care to avoid possible circumvention.

3. **Does the prohibition also apply to restricted goods that are already within the territory of the Union before entry into force of the relevant restrictive measures?**
   Last update: 2 October 2023

As for all other restrictive measures prohibiting the import, transfer or purchase, the restriction envisaged in Article 3g(1)(d) of Council Regulation No. 833/2014 does not concern goods which are already released for free circulation within the territory of the Union (i.e. usually already placed on the market) at the time when the respective measure enters into force.

For goods already in the Union but not yet released for free circulation, the provisions of Article 12e of Council Regulation No. 833/2014 apply.

4. **Does ‘import’ or "purchase" also refer to goods which are not purchased but are imported only temporarily for the purpose of repair and are re-exported to the third country after repair**?
   Last update: 2 October 2023

Yes. As for all other restrictive measures prohibiting the import, transfer or purchase, 'import' is to be understood broader than 'release for free circulation' and covering all customs procedures and formalities.

5. **When does the prohibition under Article 3g(1)(d) start applying?**
   Last update: 22 December 2023

The prohibition to import or purchase iron and steel products processed in third countries using iron or steel originating in Russia enters into application at different moments depending on the inputs used, as follows:
The prohibition to import or purchase enters into application:

- as of 30 September 2023 for products of Annex XVII containing products other than those of CN codes 7207 11, 7207 12 10 or 7224 90
- as of 1 April 2024 for products of Annex XVII containing products of CN code 7207 11
- as of 1 October 2028[21] for products of Annex XVII containing products of CN codes 7207 12 10 or 7224 90

As products of CN codes 7207 11, 7207 12 10 and 7224 90 are semifinished products, this implies that as of 30 September and before 1 April 2024 for products using the inputs of CN code 7207 11 and before 1 October 2028 for products using the inputs of CN codes 7207 12 10 or 7224 90, the Russian Federation may appear in the Mill Test Certificate (MTC) as the name of the country corresponding to the heat number (country of the ladle of melting). However, the Russian Federation should not appear as the country where the other processing operations have been carried out (i.e. hot rolling, cold rolling, etc) in order to allow the import, transfer or purchase of the product.

After 1 April 2024 for products using inputs of CN code 7207 11 and after 1 October 2024 for products using inputs of CN codes 7207 12 10 or 7224 90, as well as from 30 September 2023 for products using all other iron or steel inputs of Annex XVII, the Russian Federation should not appear in the MTC as the name of the country corresponding to the heat number (country of the ladle of melting) and should not appear either as the country where the other processing operations have been carried out.

6. **Does the application of Article 3g (1) (d) of Regulation (EU) No 833/2014 also extend to products that were manufactured or processed in a third country before 30 September 2023?**
   Last update: 2 October 2023

The prohibition applies to imports of iron and steel products incorporating inputs originating from Russia that enter the Union as of 30 September 2023, provided that they were manufactured or produced after 23 June 2023. That is the date when the obligation for the importer to demonstrate the country of origin of the iron and steel inputs used for the processing of the product in a third country was introduced in EU law. Coupled with the almost one-year

[21] Changed with Council Regulation (EU) 2023/2878 of 18 December 2023 ("12th sanctions package").

wind-down period of the prohibition itself, this should have allowed an orderly planning of imports into the Union of the relevant goods before 30 September 2023.

If the abovementioned goods are already in the territory of the Union and have been presented to customs before 30 September 2023, Article 12e applies and they can be purchased or transferred after that date (see Q3).

7. **Should the time of import be based on the first import into the EU, or should each import of the same goods be considered separately?**
   Last update: 2 October 2023

Compliance with the restrictive measure needs to be ensured for each import, even if the goods were only temporarily out of the Union or were imported in several batches.

For the case of goods that have been imported into the Union for the first time before the relevant deadline (e.g. 30 September 2023), are sent to a subcontractor in a third country for repair under outward processing, and are meant to be imported into the EU again after 30 September 2023, once the repair has been completed. Compliance with the prohibition is required when goods are imported after their repair.

For the case of several consignments of identical goods, national competent authorities can nevertheless consider and accept the provision of one evidence, i.e. when the products supplied by the same supplier during a period of time are similar and national competent authorities have no reason to suspect possible circumvention; or when the same batch of products is imported in various transports for logistic or other legitimate reasons. National authorities need to exercise due care to avoid a breach or circumvention of the measures as a consequence.

B) EVIDENCE AND PROOF OF ORIGIN OF IRON AND STEEL INPUTS

8. **What do I need to know before I plan to import into the Union iron and steel products as listed in Annex XVII when processed in a third country?**
   Last update: 2 October 2023

In order to ensure the implementation of the prohibition, the same Article establishes an obligation for the importer in the EU to provide evidence of the country of origin of the iron and steel inputs used in a third country for the processing of the iron and steel products imported in the Union.
The following documents may be considered as sufficient evidence of the country of origin of the iron or steel used as inputs:

a) **In the case of semifinished products**:
   The mill test certificate (MTC) (there is no concrete standardized format):
   - establishing the name of the facility where the production is taking place, the name of the country corresponding to the heat number (country of the ladle of melting) together with the classification at subheading level (six-digit code) of the product.

b) In the case of finished products

The mill test certificate (MTC) or mill test certificates (MTCss) – if all relevant information cannot be summarized in one single MTC or the MTC accompanied with other documents:

- establishing the name of the country and the name of the facility corresponding to the heat number (country of the ladle of melting) together with the classification at subheading level (six-digit code), and
- the name of the country and the name of the facility where the following processing operations are carried out, as relevant:
  - Hot-rolling
  - Cold-rolling
  - Hot-dipped metallic coating
  - Electrolytic metal coating
  - Organic coating
  - Welding
  - Piercing/extruding
  - Drawing/Pilgering
  - ERW/SAW/HFI/Laser welding

The importer is responsible for the information provided in the MTC or MTCs and submitted to the customs authorities of the Member State of import as evidence of the country of origin of the iron and steel inputs used.

The customs authorities may, in the event of reasonable doubt, require additional evidence such as supplementary separate mill test certificates for the different transformation steps which the product has undergone. All MTCs should be coherent with one another. The importer should apply due diligence to ensure the accuracy of the information provided.

No evidence is needed for purchases regarding goods that have already been imported into the Union. No evidence is needed for the transfer from one Member State to another of goods that have already been imported into the Union.

9. Is the mill test certificate (MTC) the only document that is accepted as evidence that the goods to be imported in the Union do not incorporate iron and steel inputs as listed in Annex XVII originating in Russia?

Last update: 2 October 2023

No. The MTC is an example that can be regarded as sufficient evidence. However, it is for the relevant national competent authorities to establish which other documentation can be considered as evidence of the country of origin of the iron and steel inputs used in a third country for the processing of the iron and steel products imported in the Union.

The origin of the inputs may be established through other means, such as a statement or declaration by the exporter or manufacturer confirming that, after exercising due diligence, the imported product does not contain any Russian steel or iron. Other documents may be invoices,

delivery notes, supplier's declarations, including supplier's declarations covering several consignments (long term supplier's declarations) business correspondence, production descriptions, quality certificates and clauses in implemented purchase orders or contracts, provided that they include information of the origin of goods, etc. The type of document(s) may also vary depending on the nature of the product, in particular for finished products (e.g. sewing needles, tubes, etc.).

National competent authorities should assess evidence in a proportionate and reasonable manner, and exercise due care to avoid a breach or circumvention.

In view of ensuring uniform implementation, the Commission will closely monitor national implementation practices.

10. Where do I need to indicate the MTC and/or any other document used as evidence?
Last update: 2 October 2023

The availability of a document used as evidence is to be declared in box 44 of the customs declaration for placing the goods under the respective customs procedure (e.g. release for free circulation, inward processing, etc.) by indicating the code Y 824 for 'evidence of the country of origin of the iron and steel inputs used' and in the possession of the importer.

11. Is the evidence needed for all processing operations throughout the whole supply chain or for the processing in the last country before the import into the Union?
Last update: 2 October 2023

The evidence for the non-Russian origin is necessary for the inputs/components that are listed in the Annex used for the production of the specific product which is to be imported in the Union. If, based on the EU rules of non-preferential origin, these inputs/components originate in a third country other than Russia, it is not necessary to supply evidence on the concrete origin of the inputs/components used in that third country to produce them.

Example: Indian screws (CN Code 7318) made with alloy steel (CN Code 7224) are imported into the EU. It is necessary to demonstrate that the alloy steel (CN Code 7224) is not of Russian origin. It is not necessary to prove the origin of any non-alloy steel (CN Code 7216) used for the production of the alloy steel (CN Code 7224).

12. What does the newly introduced status of "partner countries for the importation of iron and steel" in Art. 3g(1)(d) mean for the import and purchase of iron and steel products processed in third countries?
Last update: 26 July 2024

When iron and steel products processed in a third country and incorporating iron and steel products originating in Russia as listed in Annex XVII are imported or purchased from a partner country, importers are not required to provide evidence of the country of origin of the iron and steel inputs used for the processing of the products.

A “partner country for importation of iron and steel” as defined in Art. 1(zc) applies a set of restrictive measures on imports of iron and steel inputs from Russia and a set of import control measures that are substantially equivalent to those of the Union. Currently, the Regulation lists three partner countries – Norway, Switzerland, United Kingdom and Liechtenstein (see Annex XXXVI).

This means that EU operators importing or purchasing iron and steel products as listed in Annex XVII from Norway, Switzerland, United Kingdom and Liechtenstein are not required to provide evidence of the country of origin of the iron and steel inputs used in a third country for the processing of the iron and steel products imported in the Union.

6. TRANSIT OF LISTED GOODS VIA RUSSIA

RELATED PROVISIONS: ARTICLES 2, 2a, 3, 3b, 3c, 3f, 3g, 3h, 3i, AND 3k OF COUNCIL REGULATION NO. 833/2014

1. Are the restrictions in Articles 3g and 3i of Council Regulation No. 833/2014 applicable to goods listed in Annexes XVII and XXI from third countries transiting through Russian territory to the Union or to a third country?
Last update: 26 July 2023

No, as long as the goods are not considered 'originating' or 'exported' from Russia. Goods are not considered "exported from Russia" in the sense of the prohibitions in Articles 3g and 3i of Council Regulation No. 833/2014 if they originate in a third country and are only transiting through Russia on their way to the Union or to a third country.
However, the listed goods will be considered 'exported from Russia', and thus subject to the prohibition irrespective of their non-Russian origin, if they are already physically located in Russia and intended for export or re-export to the Union or to a third country. Examples of goods which would be considered 'exported from Russia' are:

- Goods originating in a third country that were imported in Russia, processed or not, and are now exported to the Union or to a third country;
- Goods originating in a third country that were bought by an economic operator in Russia, were kept in warehouse in Russia and are now intended to be re-exported.

All sanctions prohibitions must be read in conjunction with Article 12 of Council Regulation No. 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. Additionally, all funds and economic resources of operators in third countries facilitating infringements of the prohibitions against circumvention in Council Regulation No. 833/2014 can be frozen according to Article 3(1)(h) of Council Regulation No. 269/2014.
One element to be considered is the high risk of diversion during transit through Russia or any other possible risk of circumvention of the sanctions, therefore in all cases economic operators must conduct appropriate due diligence and prove to the national competent authorities that the goods are not 'originating' or 'exported from Russia', and are only transiting through Russia. Depending on the concrete case, the conditions to be proven include, in particular:

- Goods are not originating in Russia;
- Transit through Russia is only a portion of a complete journey beginning and terminating beyond Russia;
- Goods were not subject to any sale, processing, change of ownership after their export from the third country;
- Clear identification of the goods.

The possibility to transit via Russia is without prejudice to the right of the EU customs authorities to control the goods in accordance with Article 46(1) of the Union Customs Code, including to verify that the goods in question are not subject to any other restrictive measure

that might be applicable (e.g. prohibition related to Russian road transport undertakings in Article 3l of Council Regulation No. 833/2014).

2. Are the restrictions in Articles 3, 3b, 3f, 3h and 3k of Council Regulation No. 833/2014 applicable to goods and technologies listed in Annexes II, XI, XVI, XVIII and XXIII transiting through Russian territory from the Union to a third country?
Last update: 26 July 2023

No, as long as the goods and technologies subject to prohibitions (such as in Articles 3, 3b, 3f, 3h and 3k of Council Regulation No. 833/2014) and listed in the corresponding Annexes (Annexes II, XI, XVI, XVIII and XXIII) are only transiting via Russia to a third country and the transit is not prohibited otherwise (see below).

All sanctions prohibitions must be read in conjunction with Article 12 of Council Regulation No. 833/2014 which prohibits to participate knowingly and intentionally in activities the object or effect of which is to circumvent prohibitions in the Regulation. Additionally, all funds and economic resources of operators in third countries facilitating infringements of the prohibitions against circumvention in Council Regulation No. 833/2014 can be frozen according to Article 3(1)(h) of Council Regulation No. 269/2014.

One element to be considered is the high risk of diversion during transit through Russia or any other possible risk of circumvention of the sanctions. Therefore, economic operators must conduct appropriate due diligence in all cases and prove to the national competent authorities that the goods and technologies are only transiting through Russia and are not for "use in Russia" or are sold or supplied to any natural or legal person, entity or body in Russia. Depending on the concrete case, the conditions to be proven include, in particular:

- Transit through Russia is only a portion of a complete journey beginning and terminating beyond Russia;
- Goods were not subject to any sale, processing, change of ownership after their export from the EU;
- Clear identification of the goods;
- Clear identification of the final user and final use in the third country.

Member States' national competent authorities could also impose reporting obligations on the exporter to verify, ex post, that the conditions were complied with.

The possibility to transit via Russia is without prejudice to the right of the EU customs authorities to control the goods in accordance with Article 46(1) of the Union Customs Code, including to verify that the goods in question are not subject to any other restrictive measure that might be applicable (e.g. prohibition related to Russian road transport undertakings in Article 3l of Council Regulation No. 833/2014)

Please note that Council Regulation No. 427/2023 ("10th sanctions package") introduced a prohibition to transit via Russian territory dual-use goods and technology as well as firearms exported from the Union.

Council Regulation No. 1214/2023 ("11th sanctions package") has extended the prohibition to transit via Russian territory to goods and technology which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector, as well as to goods and technologies suited for use in aviation or the space industry, jet fuel and fuel additives exported from the Union.
Council Regulation No. 2878/2023 of 18 December 2023 ("12th sanctions package") extended the prohibition to transit via Russian territory to a selection of goods and technology of Annex XXIII (see also Question 3), that are identified in Annex XXXVII. Most goods and technologies listed in Annex XXIII are not subject to the "transit ban" in Art. 3k(1a).

3. **Is the transit of goods mentioned in Articles 2, 2a, 2aa, 3c and 3k of Council Regulation No. 833/2014 from the Union through Russian territory to a third country allowed?**
   Last update: 22 December 2023

No, as paragraphs 1a in Articles 2, 2a, 2aa, 3c, and 3k of Council Regulation No. 833/2014 prohibit the transit via the territory of Russia of the following goods and technologies when those are exported from the Union:

- Dual-use goods and technology (Article 2);
- Goods and technology which might contribute to Russia's military and technological enhancement, or the development of the defence and security sector, as listed in Annex VII of Council Regulation No. 833/2014 (Article 2a);
- Firearms, their parts and essential components and ammunition as listed in Annex I to Regulation No. 258/2012 of the European Parliament and of the Council and firearms and other arms as listed in Annex XXXV of Council Regulation No. 833/2014 (Article 2aa);
- Goods and technology suited for use in aviation or the space industry, as listed in Annex XI, and of jet fuel and fuel additives, as listed in Annex XX of Council Regulation No. 833/2014 (Article 3c);
- Goods and technology which could contribute in particular to the enhancement of Russian industrial capacities as listed in Annex XXXVII (Article 3k(1a)).

The direct export to third countries (e.g. from the Union to a third country by air) or a transit through third countries other than Russia is not prohibited. The transit via the territory of the Union of goods mentioned in Articles 2, 2a, 2aa, 3c, and 3k exported from third countries to third countries is also not prohibited if not subject to other restrictions.

This "transit ban" aims to minimise the risk of circumvention for those particular sensitive items (e.g. goods destined for third countries are getting diverted when in transit through Russia).

7. TECHNICAL ASSISTANCE

RELATED PROVISION: ARTICLE 1 OF COUNCIL REGULATION 833/2014

1. **How should one interpret the prohibition to provide technical assistance and brokering services that accompany export-ban measures under Council Regulation 833/2014?**
   Last update: 13 April 2022

The definitions of 'technical assistance' and 'brokering services' can be found in Articles 1(c) and 1(d) of Council Regulation 833/2014. All export bans are accompanied by prohibitions to provide technical assistance and brokering services. These provisions are meant to avoid that EU operators who cannot export the goods subject to an export ban support a third county in obtaining, manufacturing, repairing, maintaining etc. the goods on its own. Your national competent authority can assist you in determining whether services your company provide qualify as 'technical assistance' or 'brokering services' for goods subject to an export ban under Council Regulation 833/2014.

8. FINANCIAL ASSISTANCE

RELATED PROVISION: ARTICLE 1 OF COUNCIL REGULATION 833/2014

1. What does the term "financial assistance for trade" refer to?

Last update: 31 March 2022

The notion of "financing and financial assistance" refers to any action, irrespective of the particular means chosen, whereby the person, entity or body concerned, conditionally or unconditionally, disburses or commits to disburse its own funds or economic resources, including but not limited to grants, loans, guarantees, suretyships, bonds, letters of credit, supplier credits, import or export advances and all types of insurance and reinsurance, including export credit insurance. Payment as well as terms and conditions of payment of the agreed price for a good or a service, made in line with normal business practice, do not constitute financing or financial assistance.

Note that the notion of "financing or financial assistance" is already clarified in the Council's Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy pdf (europa.eu) (para 59a).

9. OBLASTS

RELATED PROVISION: REGULATION 2022/263, REGULATION 833/2014

1. **How should operators assess which areas in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts are subject to restrictions?**
   Last update: 12 July 2024

As amended on 6 October 2022, Council Regulation (EU) No 2022/263 covers all areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine that are not under the control of the authorities of Ukraine (see Article 1(d)). Considering the fluid situation, a dynamic assessment of this control could be necessary. For instance, as of 12 July 2024, the city of Zaporizhzhia and the city of Kherson are in fact under Ukrainian control. An up-to-date list of territories temporarily occupied by Russia can be found on the dedicated website maintained by Ukrainian authorities. In case of doubt, EU operators can reach out to their national competent authority.

2. **Which goods can be imported into the Union from Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and under which conditions?**
   Last update: 20 December 2022

Goods originating in the non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts are covered by the ban in Article 2(1) of the Regulation at the time of import. Moreover, when it comes to the application of the preferences under the Association Agreement (AA) between the EU and Ukraine, the exception laid out in Article 2(2)(b) of the Regulation is in practice not applicable, given that Ukraine does not issue certificates of origin for such goods. Ukraine has in fact withdrawn offices in those non-government controlled areas from the list of authorised offices to issue certificates of origin. On 1 December 2022, the Commission published an updated notice to importers informing that goods produced in and exported from the non-government controlled areas would not meet the criteria established in Protocol 1 to the AA (on rules of origin) and therefore advising operators not to claim the preferences.
Goods produced in or exported from the government-controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts may be imported, either under the preferences granted by the AA or on a non-preferential basis, under the same conditions as for any other product of the rest of the territory of Ukraine.

To benefit from preferences under the AA, these products must be accompanied by a movement certificate issued by competent customs offices in Ukraine or by origin declarations made out by approved exporters, both as equally valid proof of the preferential origin of the goods.

Goods exported from the government-controlled areas of the Donetsk, Luhansk, Kherson and Zaporizhzhia oblasts, which do not qualify as originating in Ukraine under the AA, may be imported into the EU subject to the corresponding customs duties under the same conditions as any other product produced in or exported from the territory of Ukraine. The import of these

goods, which do not satisfy the rules of origin requirements provided for in the AA, cannot be subject to any requirement to be accompanied by a movement certificate EUR.1 or origin declaration, as such documents can only be issued for products that meet the preferential origin requirements.

Since trade between the government and non-government controlled areas of these four oblasts is, in practice, not possible, it is highly unlikely that goods may come from the non-government controlled parts of these oblasts via the government-controlled areas, and therefore the import of such goods should not be subject to any requirements or documentation different from that applied to imports from any other part of Ukraine.

In case of reasonable doubts as to whether goods to be imported from Ukraine may come from the non-government controlled areas of the four oblasts, importers in the EU may be asked to submit additional documentation, e.g. a copy of the export declaration of the product in question accepted by one of the official Ukrainian customs offices, to demonstrate that the product is not subject to the import prohibition of Council Regulation (EU) No 2022/263.

3. Which goods can be exported from the Union to Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and under which conditions?

Last update: 20 December 2022

The prohibition to sell, supply, transfer or export to persons and entities in the parts of those oblasts that are not under the control of the government of Ukraine or for use in those territories applies only to the goods and technology which have been included in Annex II to Council Regulation (EU) 2022/263[22]. Goods and technology not included in the list in Annex II are not subject to the ban.

The second subparagraph of Article 4(1) of this Regulation indicates the key sectors where the goods and technology subject to the ban may be used. However, the prohibition in the first subparagraph of Article 4(1) applies to all the goods and technologies listed in Annex II to the Regulation, regardless of whether they are actually used, in practice, in one of the key sectors.

In order to ensure compliance, EU exporters should perform adequate due diligence on their business partners and the final destination of the goods. On 1 April 2022, the Commission published notice to economic operators, importers and exporters in view of risks of circumvention.

There are no export restrictions to trade with the government-controlled areas of the four oblasts and export of goods to the government controlled areas is under the same conditions as for any exportation to the rest of the territory of Ukraine. Since trade between the government and non-government controlled areas of these four oblasts is, in practice, not possible, it is highly unlikely that goods exported to Ukraine may be redirected to the non-government controlled

[22] Mutatis mutandis, see for reference the Commission opinion of 4 July 2019 on the export ban established by Council Regulation (EU) No 692/2014, C(2019) 5019 final, https://finance.ec.europa.eu/system/files/2020-01/190704-opinion-export-ban_en.pdf

parts of these oblasts.

In case of reasonable doubts as to the real destination of the exported goods, exporters in the EU may be asked to submit additional documentation, e.g. a letter from the local administration in Ukraine evidencing that the consignee is operating in a government controlled area of Ukraine, information on the buyer/consignee, invoices etc., to demonstrate that the product is not subject to the export prohibition of Council Regulation (EU) No 2022/263. As for any goods subject to export restrictions, the customs authorities may also perform the customs controls they consider necessary to ensure that goods to be exported are not subject to the ban. Exceptions for export for humanitarian purposes can apply (see Article 4a)[23].

4. **Can banks process financial transactions in connection with trade done in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts and, if so, under which conditions?**
   Last update: 18 April 2024

EU credit institutions are prohibited from providing, inter alia, brokering or investment services as well as financing or financial assistance in the non-government controlled areas of those oblasts in relation to certain goods and activities. The processing of payments into bank accounts in the non-government-controlled areas (e.g. for salaries of workers abroad) is not restricted as such, to the extent these payments are not related to persons, services or goods falling under the scope of EU sanctions.

There are no restrictions to financial transactions processed by EU credit institutions in support of trade in the government-controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts. EU credit institutions can process transactions in those areas in the same fashion as transactions intended for credit institutions in any other oblast of Ukraine.

Regarding whether the area in the oblast of Donetsk, Kherson, Luhansk or Zaporizhzhia where the financial transaction is to be processed is under the control of the government, see Question 1. In order to conduct the assessment, EU credit institutions can take into account the relevant indicators, including by relying on Ukrainian banks active in the area whose reliability is proven by past experience or by liaising with the Ukrainian authorities, e.g. the National Bank of Ukraine, to obtain updated information. Documents and certificates collected for trade purposes as per Questions 2 and 3 can also be submitted to the EU credit institution by the economic operator requesting the transaction, to substantiate the legitimacy of the latter.

5. **Can EU operators provide services to persons in the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts, or related to activities there?**
   Last update: 20 December 2022

Council Regulation (EU) No 2022/263 sets out restrictions on specific types of services concerning the non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts.
Firstly, in the area of trade in goods, Article 4(2)(a) of the Regulation prohibits brokering services related to goods that are restricted from export, to any persons in the non-government

[23] See the Commission guidance note on the provision of humanitarian aid in compliance with EU restrictive measures of 30 June 2022 at https://finance.ec.europa.eu/publications/sanctions-commission-guidance-note-provision-humanitarian-aid-compliance-eu-restrictive-measures_en

controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts, or for use therein. In addition, Article 5(1) prohibits brokering, construction or engineering services directly relating to infrastructure in four key sectors as defined on the basis of Annex II. For further details please also see Questions 1 to 4.

Secondly, when it comes to services not related to trade in goods, Article 3(1) prohibits investment services related to certain activities in the non-government controlled areas of Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts; and Article 6 prohibits services directly related to tourism activities in those areas.

However, there are no restrictions on the provision of services by EU operators to persons in the government-controlled areas in Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts. EU operators can provide all services in those areas in the same fashion as for any other oblast of Ukraine.

EU operators intending to provide the types of services covered by Regulation (EU) No 2022/263 to the Donetsk, Kherson, Luhansk or Zaporizhzhia oblasts should perform due diligence to determine the location of the receiver of services and/or the location sector where these services would be used – depending on the applicable provision. In case of doubt, EU operators can reach out to their national competent authority.

10. TRANSPORT OF GOODS IN TRANSIT THROUGH THE UNION BETWEEN THE KALININGRAD OBLAST AND RUSSIA

Guidance to EU Member States

1. In response to Russia's aggression against Ukraine, the EU has adopted a series of far-reaching restrictive measures against Russia in 2022. In particular, Council Regulation (EU) 833/2014 ('the Regulation') sets out a number of specific and targeted import and export restrictions in relation to certain goods originating in Russia.

2. These sanctions are justified and fully compatible with the security exceptions in the relevant international agreements. Under Article 19 and Article 99 of the PCA prohibitions or restrictions on goods in transit can be imposed if justified, inter alia, on grounds of public security or protection of health and life of humans, or protection of intellectual, industrial or commercial property, and to protect essential security interests.

3. At the same time, Article V GATT and Article 12 of the PCA, as well as the 2004 EU-Russia Declaration, establish a general principle of freedom of transit.

4. The question has now arisen whether these restrictive measures prohibit the transport of essential goods in *transit* through the European Union between non-contiguous parts of the Russian Federation. In particular, this question has come up for a number of sanctioned products, such as iron and steel, cement and wood, coal and crude oil and oil products.

5. This Guidance Note does not affect the guidance provided by the Commission with respect to the application of sanctions in other cases.

6. The relevant EU trade sanctions in the Regulation regularly prohibit *"to purchase, import/export or transfer, directly or indirectly* [the goods in question]*, if they originate in Russia or are exported from/to Russia"*.

7. Under Article 3(l) of the Regulation, *road* transport undertakings established in Russia are prohibited to transport goods by road within the territory of the Union, including in transit. However, this ban does not apply to the transport of goods in transit through the Union between the Kaliningrad Oblast and Russia, provided that the transport of such goods is not otherwise *prohibited* under the Regulation. Transit of sanctioned goods by *road* is therefore not allowed.

8. No such specific regime applies to *rail* transport on the same route, without prejudice to Member States' obligation to perform effective controls as set out below, in conformity with EU law.

9. The transit of sanctioned military and dual use goods and technology, as defined in Regulation (EU) 2021/821, is prohibited in any event.

10. Member States must also ensure that sanctioned goods that have illegally arrived in any part of Russia cannot be transported *onwards* via the EU customs territory.

11. Member States are under the legal obligation to prevent all possible forms of circumvention of EU restrictive measures. For that purpose, it is necessary for Member States to continue monitoring the two-way trade flows between the non-contiguous parts of the Russian Federation. Targeted, proportionate and effective controls and other appropriate measures to prevent violation of the EU Regulations should be carried out by Member States authorities.

12. Member States shall check whether transit volumes remain within the historical averages of the last 3 years, in particular reflecting the real demand for essential goods at the destination, and that there are no unusual flows or trade patterns which could give rise to circumvention. In such a case, Member States shall take all necessary measures provided for under EU law, including where appropriate the refusal of transit and the holding of the goods in question.

13. Member States authorities and the European Commission shall continue to cooperate and coordinate closely on this matter. The Commission stands ready to provide further guidance, guidelines for monitoring the two way flows and administrative best practices and advice to Member States, to ensure uniform implementation.

11. DIVESTMENT FROM RUSSIA

RELATED PROVISION: ARTICLE 12b OF COUNCIL REGULATION 833/2014

1. **Why were the derogations in Article 12b(1) and (2) of Council Regulation 833/2014 introduced?**
   Last update: 17 December 2024

When EU operators are divesting from the Russian market, they are still bound by the prohibitions set out in Council Regulation 833/2014. It is therefore not possible to import goods subject to an import prohibition from Russia into the Union or to sell, transfer or supply prohibited goods falling to a Russian buyer.
Therefore, derogations from several prohibitions in Council Regulation 833/2014 have been introduced in Article 12b. Since the aim is to facilitate an expeditious exit from the Russian market, those derogations are temporary.

For prohibitions pursuant to Articles 2, 2a, 3, 3b, 3c, 3f, 3h and 3k (Article 12b(1)):
Operators can request an authorisation to enable the sale, supply or transfer of goods and technologies listed in Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII to Council Regulation 833/2014 as well as in Annex I to Regulation (EU) 2021/821 as well as the sale, licensing or transfer in any other way of intellectual property rights or trade secrets as well as granting rights to access or re-use any material or information protected by means of intellectual property rights or constituting trade secrets, related to the goods and technology in the aforementioned annexes.

The following **cumulative** requirements must be met:

- the sale, supply or transfer is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia;
- the goods and technologies are owned by an EU national or EU operator or by a Russian entity owned by or solely or jointly controlled by an EU operator;
- there are no reasonable grounds to believe that the goods might be for a military end-user or have a military end-use in Russia;
- the concerned goods and technologies were physically located in Russia before the relevant prohibitions have entered into force in respect of those goods and technologies listed in the aforementioned Annexes.
- The sale, supply and transfer of the goods and technologies has to take place before 31 December 2025.

For prohibitions pursuant to Article 3g and 3i (Article 12b(2)):

Operators can request an authorisation to enable the import into the Union or transfer of goods and technologies listed in Annexes XVII and XXI to Council Regulation 833/2014.

The following **cumulative** requirements must be met:

- The import or transfer is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia;

- The concerned goods are owned by an EU national or EU operator or by a Russian operatpor owned by or solely or jointly controlled by an EU operator;
- The concerned goods were physically located in Russia before the relevant prohibitions in Articles 3g and 3i entered into force in respect of those goods.
- The import into the Union or transfer took place before 31 December 2025.

In both Art 12b(1) and Art.12b(2), the conditions aim at ensuring that no circumvention of the relevant measures takes place under the pretext of divestment – for instance, that divestment does not retroactively validate purchases in Russia or exports to Russia of goods which were prohibited under the EU restrictive measures at the time when they took place.

2. **Should the sale of shares of a Russian subsidiary that holds goods and technologies listed in Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII to Council Regulation No. 833/2014 as well as in Annex I to Regulation (EU) 2021/821 to a Russian buyer be considered an indirect sale, supply or transfer of prohibited goods and technologies as listed in Articles 2, 2a, 3, 3b, 3c, 3f, 3h and 3k of Council Regulation No. 833/2014?**
   Last update: 22 December 2023

Yes. A sale of shares of a Russian subsidiary must be considered as a prohibited indirect sale, supply or transfer of prohibited goods given that the buyer of the shares acquires at the same time the goods and technologies listed in Annexes II, VII, X, XI, XVI, XVIII, XX and XXIII to Council Regulation No. 833/2014 as well as in Annex I to Regulation (EU) 2021/821.
It is not relevant that the full 100% of the shares are sold. Once the buyer has control over the subsidiary, they have control over the assets. The sale of the shares thus amounts to a sale, supply or transfer of the goods in question to a "natural or legal person, entity or body in Russia or for use in Russia". It is moreover not relevant if those goods are already in Russia or that they cannot be re-exported from Russia due to restrictions imposed by the Russian government.

EU operators may apply for a derogation based on Article 12b(1) of Council Regulation 833/2014.

12. RESTRICTIONS ON DIAMONDS

RELATED ARTICLE: ARTICLE 3p OF COUNCIL REGULATION NO. 833/2014

1. What is the diamond import ban?

Last update: 22 December 2023

On 6 December 2023, building on the statements of February and May 2023, the Leaders of the Group of Seven (G7) agreed to introduce import restrictions on non-industrial diamonds, mined, processed, or produced in Russia, by 1 January 2024, followed by further phased restrictions on the import of Russian diamonds processed in third countries targeting 1 March 2024.

The EU sanctions on Russian diamonds contained in the 12th sanctions package (Article 3p of Council Regulation No. 833/2014) are part of this concerted G7 effort to introduce an internationally coordinated diamond ban, that aims at depriving Russia of this important revenue stream estimated at EUR 4 billion per year, of which approximately EUR 1.5 billion are annual imports into the EU.

A ban is only effective if a major part of the world's diamond retail market implements such a ban. To this end, the Commission has been engaging with G7 countries and other key partners, including industry, with the aim of designing and ensuring the effective implementation of coordinated restrictive measures, including through tracing technologies.

2. What are the different stages of the diamond ban?

Last update: 20 December 2024

Article 3p of Council Regulation No. 833/2014 prohibits the purchase, import, or transfer of Russian non-industrial diamonds in several stages:

- Since 1 January 2024, diamonds (natural and synthetic) and products incorporating diamonds (jewellery) listed in Parts A, B and C of Annex XXXVIIIA of Council Regulation No. 833/2014 are banned if they originate in Russia or have been exported from Russia. The same applies to such goods (of any origin) if they transited through Russia;

- Since 1 March 2024, the prohibition applies also to Russian natural diamonds as listed in Part A of Annex XXXVIIIA that have been processed in a third country, consisting of Russian diamonds equal to or above 1.0 carats per diamond;

- Since 1 September 2024, the prohibition applies also to Russian natural and synthetic diamonds (all products listed in Parts A and B of Annex XXXVIIIA) that have been processed in a third country, consisting of or incorporating diamonds originating in Russia or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams* per diamond.

- The entry into force of the prohibition on jewellery (all products listed in Part C of Annex XXXVIIIA) incorporating Russian diamonds processed in third countries (other

than Russia), initially planned for 1 September 2024, has been postponed. On 24 June 2024, the Council adopted Council Regulation (EU) 2024/1745 (the 14th sanctions package) postponing the application of this measure (Article 3p, new paragraph 4). The date of entry into force of such a ban has not been set yet, as it depends on what the Council decides in view of action taken within the G7 to pursue that measure.

* Synthetic diamonds are measured in grams in the Combined Nomenclature (1 carat = 0.2 grams)

3. **Do the thresholds of 1.0 carats and 0.5 carats refer to the weight of the diamond before it is polished, or after?**
   Last update: 22 December 2023

The weight thresholds apply equally to rough and polished diamonds at the time of importation into the Union.

4. **Is diamond jewellery incorporating Russian diamonds banned?**
   Last update: 20 December 2024

It depends on the origin of the jewellery or whether it has been exported or transited Russia.

As of 1 January 2024, it is prohibited to purchase, import, or transfer jewellery incorporating Russian diamonds as listed in Part C of Annex XXXVIIIA of Council Regulation No. 833/2014 if it originates in Russia or has been exported from Russia (Article 3p, paragraph 1). The same applies to jewellery incorporating diamonds of any origin that transited through Russia (Article 3p, paragraph 2).

A ban on jewellery that has been processed in a third country, incorporating diamonds originating in Russia or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams per diamond, was supposed to enter into force as of 1 September 2024. On 24 June 2024 the Council adopted Council Regulation (EU) 2024/1745 (part of the 14th sanctions package) and postponed the entry into force of this measure. The date of entry into force of such a ban has not been set yet, as it depends on what the Council decides in view of action taken within the G7 to pursue that measure. A new Regulation determining the date of the entry into force of such a ban will have to be adopted by the Council (Article 3p, new paragraph 4).

Furthermore, there is a ban on gold jewellery (Article 3o) and precious metal jewellery (Article 3i) from Russia.

5. **Can I travel with diamond jewellery to and from Russia?**
   Last update: 22 December 2023

Yes, the prohibition of Article 3p does not apply to jewellery incorporating Russian diamonds for personal use of natural persons travelling to the European Union or of their immediate family members travelling with them, as long as it is owned by those individuals and not intended for sale.

A similar exemption also applies to the gold ban of Article 3o and to the ban on exports of diamond jewellery included in the luxury goods list in Annex XVIII of Council Regulation No. 833/2014 (Article 3h).

6. **Does the prohibition of Article 3p also apply to restricted goods that are already within the territory of the Union before entry into force of the relevant restrictive measures?**
   Last update: 20 December 2024

As for all other restrictive measures prohibiting the import, transfer or purchase, (see in this regard Q.3 of the IMPORT, PURCHASE & TRANSFER OF LISTED GOODS) the restriction envisaged in Article 3p of Council Regulation No. 833/2014 does not concern goods which are already released for free circulation within the territory of the Union (i.e. usually already placed on the market) at the time when the respective measure enters into force. For goods already in the Union but not yet released for free circulation, the provisions of Article 12e of Council Regulation No. 833/2014 apply.

For diamonds that are exported and wish to re-enter the EU, please refer also to Questions 12 on documentation and 15 on grandfathering.

7. **What sanctions other than Article 3p affect diamonds in Council Regulation No. 833/2014?**
   Last update: 22 December 2023

The EU already added the imports of synthetic diamonds from Russia to the import bans on 6 October 2022 (Article 3i of Council Regulation No. 833/2014).

In addition, there is a ban to import, transfer, and purchase gold jewellery as of 22 July 2022 (Article 3o) and precious metal jewellery (Article 3i) from Russia (added on 6 October 2022). To the extent diamonds are set in those products they are covered.

Diamonds and jewellery are subject to an export ban of luxury goods to Russia if the value is at least 300 EUR (Article 3h and Sections 10 and 18 of Annex XVIII). This includes for example synthetic/reconstructed diamonds, diamond dust and diamond jewellery, and some other luxury products, such as watches whether or not incorporating diamonds.

8. **What is the traceability-based verification and certification mechanism for rough diamonds?**
   Last update: 20 December 2024

The EU will establish a robust traceability-based verification and certification mechanism for diamonds within the G7 as of 1 March 2025 (the ‘G7 Certification Scheme’).

Optional G7 certification of rough diamonds started on 1 March 2024 based on documentary evidence proving the origin of the diamond(s) upon importation.

The traceability-based verification once mandatory on 1 March 2025 applies to diamonds of a carat weight above a certain threshold (0.5 carats or above). For imports into the Union during

the so-called “sunrise period” between 1 March 2024 and 28 February 2025, please see Questions 12 and 15 below.

While several scenarios exist, in principle, information identifying a rough diamond will first be onboarded (registered) into a traceability platform in the producer country. Once the rough diamond arrives at the G7 import node, a verification, including a physical check of the diamond, is performed by the competent authorities. In addition, a blockchain-based G7 ledger (‘the distributed ledger’) will query validated traceability systems to obtain already existing information about the diamond to be imported in a G7 jurisdiction. A G7 certificate is then issued and added to the G7 ledger after successful verification.

The system of G7 certification is operational as of 1 March 2024 in a pilot phase. The system of G7 certification was intended to be fully operational as of 1 September 2024. On 24 June 2024 the Council adopted Council Regulation (EU) 2024/1745 (part of the 14th sanctions package) and extended the duration of the pilot phase until 1 March 2025.

During the ‘sunrise period’, economic operators can choose to use either the traceability-based certification or other evidence when importing into the Union (for further details regarding accepted evidence proving the non-Russian origin see Question 12 below). As of 1 March 2025, the use of the traceability-based mechanism will be mandatory for imports of diamonds with a weight of 0.5 carats or above.

The G7 Certification Scheme works by using and expanding on existing tracing technologies and controls. Producers of diamonds will be able to onboard the required information to the traceability platform, which is then verified through the distributed ledger and certified at the G7 import node (for further details on the import node for rough diamonds, see Question 9).

The blockchain-based G7 ledger is a standalone software ledger accessible to competent authorities and will be interoperational with several existing solutions facilitating the G7 Certification Scheme.

9. What do I need to know before I plan to import rough diamonds into the Union?

Last update: 20 December 2024

Importers shall provide evidence of the country of mining origin of the diamonds if the diamonds are above a certain carat weight as follows:

On 1 March 2024, all rough diamonds (CN codes 7102 31 00 and 7102 10 00) of 1.0 carats or above entering the EU market were required to pass through a so-called ‘rough import node’, located in Antwerp (Belgium) for initial verification (including physical check) and certification. Belgium already today handles 99.99% of the EU’s import of rough diamonds. Since 1 September 2024, the threshold was lowered to 0.5 carats or above.

The Authority for the verification of diamonds (listed in Annex XXXVIIIB) is the following:

Federal Public Service Economy at the Diamond Office

Hoveniersstraat 22

B-2018 Antwerpen

Belgium

A G7 certificate identifying the diamond is issued in the rough node.

The verification at the importation of polished diamonds is intended to be based on the G7 certificates that follow the rough diamond through the production/polishing process.

For imports into the Union during the so-called "sunrise period" between 1 March 2024 and 28 February 2025, please see Questions 12 and 15 below.

10. What is the link with Kimberley Process (KP) certification?

Last update: 20 December 2024

The KP has a key role to play in controlling rough diamonds and ensuring that they are conflict free. The sanctions on natural Russian diamonds apply to both rough and polished, diamonds with the exception of non-industrial diamonds. The system of implementation of the sanctions on diamonds will complement KP certification and verifications.

The control measures of the ban on Russian diamonds are implemented in phases. Since 1 January 2024 the use of KP certificates is accepted as evidence of country of origin for imports of rough diamonds. Since 1 March a certification system issuing G7 certificates is in use, but KP certificates will still be accepted as evidence of country of origin if no Russian diamonds are mixed with other origins. While mixed parcels will be accepted, as the certificates for such parcels not always disclose the origin, it is therefore needed to provide, in addition to the KP certificate, evidence proving that diamonds, over the weight threshold, are of non-Russian origin. As of 1 March 2025, the obligation to use the G7 traceability and certification system for rough diamonds will be mandatory under the EU's restrictive measures. The KP certification requirements will continue to apply. However, as of 1 March 2025, only KP certificates with single origin or De Beers DTC mixed origin, will be accepted (see Question 12).

11. Where can I find the list of goods covered by the diamond ban of Article 3p?

Last update: 20 December 2024

The goods subject to the diamond ban are listed in Annex XXXVIIIA of Council Regulation No. 833/2014:

Part A

	CN code	Description
	7102 10	Unsorted diamonds
	7102 31	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted
	7102 39	Non-industrial diamonds, other than unworked or simply sawn, cleaved or bruted

Part B

	7104 21	Synthetic or reconstructed diamonds, unworked or simply sawn or roughly shaped
	7104 91	Synthetic or reconstructed diamonds, other than unworked or simply sawn or roughly shaped

Part C (currently only in force for imports into the EU coming directly from Russia or from third countries and of Russian origin)

Ex	7113	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal, incorporating diamonds
Ex	7114	Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal, incorporating diamonds
Ex	7115 90	Other articles of precious metal or of metal clad with precious metal, incorporating diamonds, not elsewhere specified, excluding platinum catalysts in the form of wire cloth or grill
Ex	7116 20	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed), incorporating diamonds
Ex	9101	Wristwatches, pocket-watches and other watches, including stopwatches, incorporating diamonds, with case of precious metal or of metal clad with precious metal

12. What requirements do I need to consider for importation of rough or polished <u>natural</u> diamonds between 1 March 2024 and 28 February 2025 ("sunrise period")?

Last update: 20 December 2024

During the "sunrise period" between 1 March 2024 and 28 February 2025 importers into the Union may provide documentary evidence for importation of both rough and polished natural diamonds into EU customs territory. Rough natural diamonds of CN codes 7102 31 00 and 7102 10 00 with a weight equal to or above 1.0 carat (since 1 March 2024) or equal to or above 0.5 carat (since 1 September 2024) need to be submitted without delay to the authority in Annex XXXVIIIB (see Question 9).

To import rough or polished natural diamonds into the EU using documentary evidence, a set of minimum information is required to be prepared and available prior to, or at the time of importation.

<u>For rough and polished natural diamonds, the following cumulative information is required to be available.</u>

- Mining country of origin.
- Names of buyer and seller.
- CN codes and description.
- Number of parcels in a shipment.
- Weight in carat of the diamond(s) if at least one diamond (if multiple diamonds are shipped in a parcel) is of 0.5 carat or above (since of 1 September 2024).
- Value of the diamonds.
- Place of importation, exportation, and route of transportation as applicable depending on the lifecycle of the diamond(s) prior to importation in the EU.

The type of documents containing the above information required for submission with entry may vary. But it is the importer's responsibility to ensure the documentation meets all the above information requirements. As an illustrative and non-exhaustive list, please consider the below examples of documentation.

For rough natural diamonds	**For polished natural diamonds**
• KP certificates with single origin (De Beers DTC mixed origin* accepted) for diamonds at or above 0.5 carat (since 1 September 2024). • KP certificates with mixed origin accompanied by documentary evidence, proving that no diamonds at or above 1.0 carat since 1 March 2024 or 0.5 carat since 1 September 2024 in the shipment are mined in Russia, are recognised during a transition period between 1 March 2024 to 28 February 2025, after which only KP certificates with single origin or De Beers DTC mixed origin* will be accepted.	• Signed attestation or supplier declaration confirming that none of the diamonds at or above 0.5 carat (since 1 September 2024) in the shipment are mined in Russia.
Additional documents proving the required information may include:	Evidence supporting the attestation or supplier declaration is mandatory and may include:
• Customs declaration form • Invoice • Packing list	• Customs declaration form • Invoice • Packing list

• Transport documentation, e.g. waybill document • Evidence from traceability systems	• Transport documentation, e.g. waybill document • Laboratory grading report • Evidence from traceability systems

It is recommended that importers consider using the G7 import node in Belgium (see Question 9 above) to obtain a G7 Certificate before the end of the sunrise period (28 February 2025), to support transition to the requirement starting 1 March 2025. Rough diamonds are preferably imported using single origin KP certificates. Rough diamonds imported using mixed origin KP certificates receive a G7 certificate, provided that documentary evidence demonstrates (including for imports in the EU) non-Russian provenance and origin of diamonds during the sunrise period (1 March 2024 – 28 February 2025). The documentary evidence does not apply to De Beers DTC mixed origin* KP certificates.

Additional certification nodes outside the EU such as in Canada and other diamond mining countries in Africa are under consideration to support a multi-certification node system. The aim is to make those operational as soon as possible while maintaining the integrity of the traceability and certification system and thereby reducing the risk of Russian diamonds contaminating the supply chain.

* De Beers' so-called 'Botswana Sort' diamonds are accepted because they consist of aggregated diamonds not mined in Russia (Botswana, Canada, Namibia and South Africa).

13. What documentary evidence is necessary for the importation of rough or polished synthetic diamonds?

Last update: 20 December 2024

Direct imports from Russia of synthetic diamonds are banned since 1 January 2024. Since 1 September 2024 imports of rough and polished diamonds with a weight equal to or above 0.5 carat (0.1 gram) are also banned if the synthetic diamond is manufactured in Russia and the final processing (polishing etc.) has taken place in a third country.

To import rough or polished synthetic diamonds into the EU using documentary evidence, a set of minimum information is required to be prepared and available prior to, or at the time of importation.

<u>For rough and polished synthetic diamonds, the following cumulative information is required to be available.</u>

- Manufacturing country of origin or signed attestation or supplier declaration confirming that none of the diamonds at or above 0.5 carat (since 1 September 2024) in the shipment have been manufactured in Russia.
- Names of buyer and seller.
- CN codes and description.

- Weight in carat of the diamond(s) if at least one diamond (if multiple diamonds are shipped in a parcel) is of 0.5 carat (0.1 gram) or above (since of 1 September 2024).
- Value of the diamonds.
- Place of importation, exportation, and route of transportation as applicable depending on the lifecycle of the diamond(s) prior to importation in the EU.

The type of documents containing the above information required for submission with entry may vary. But it is the importer's responsibility to ensure the documentation meets all the above information requirements. As an illustrative and non-exhaustive list, please consider the below examples of documentation.

For rough synthetic diamonds	**For polished synthetic diamonds**
• Signed attestation or supplier declaration confirming that none of the diamonds at or above 0.5 carat (0.1 gram) (since 1 September 2024) in the shipment are manufactured in Russia.	• Signed attestation or supplier declaration confirming that none of the diamonds at or above 0.5 carat (0.1 gram) (since 1 September 2024) in the shipment are manufactured in Russia.
Additional documents proving the required information may include:	Evidence supporting the attestation or supplier declaration is mandatory and may include:
• Customs declaration form • Invoice • Packing list • Transport documentation, e.g. waybill document • Evidence from traceability systems	• Customs declaration form • Invoice • Packing list • Transport documentation, e.g. waybill document • Laboratory grading report • Evidence from traceability systems

14. What changes did the 14th package of sanctions adopted on 24 June 2024 introduce to the ban on Russian diamonds?
Last update: 20 December 2024

The following elements were added or modified in the 14th package:

- a *"grandfathering"* clause for stocks of diamonds held in the EU or in third countries (but outside Russia): the 14th package clarifies that diamonds that were physically located in the EU or a third country (other than Russia), or were polished or

manufactured there, before the import ban on Russian diamonds entered into force, are not subject to the ban (Article 3p, new paragraphs 11 and 12).
- the possibility to temporarily import or export jewellery, for example for trade fairs or repairs (Article 3p, new paragraph 13).
- prolonging by six months (until 1 March 2025) the sunrise period during which the G7 certification is recommended to facilitate importation but remains optional. Alternatively, importers of diamonds may continue providing documentary evidence for importation of both rough and polished natural diamonds into the EU. On 1 March 2025 the full-traceability and certification scheme for imports of rough and polished natural diamonds will become mandatory (Article 3p, amended paragraph 10).
- postponing the ban on jewellery incorporating Russian diamonds processed in third countries (other than Russia), which was foreseen to enter into force on 1 September 2024. It is up to the Council to decide to activate the ban at a later stage in view of action taken within the G7 to pursue that measure (Article 3p, amended paragraph 4).
- clarification that rough diamonds imported through the Authority for the verification of diamonds (listed in Annex XXXVIIIB) (i.e. Federal Public Service Economy at the Diamond Office, Belgium) do not need to be resubmitted for verification in view of certification in the case of a subsequent importation (Article 3p, amended paragraph 8).

15. Are existing stocks of diamonds subject to the restrictions on diamonds ("*grandfathering*")?

Last update: 20 December 2024

No. In principle, stocks of diamonds imported before the ban on Russian diamonds are not subject to the restrictions. Non-industrial, natural, or synthetic diamonds (both rough and polished) of unknown or Russian origin that an economic operator already possessed before the date of applicability of the respective prohibitions can be grandfathered. Thus, the provenance of the diamonds is irrelevant, except for stock held in Russia which cannot be grandfathered.

For example: if an economic operator purchased diamonds of below 1.0 carat but above 0.5 carat prior to 1 September 2024 (i.e. the weight range banned for importation after 1 September 2024) those diamonds can in principle be grandfathered upon importation in the EU or prior to exportation from the EU.

However, in order to benefit from this grandfathering exception, certain conditions need to be fulfilled. These conditions differ based on the location of the goods before the date of applicability of the respective prohibitions:

A. The products were located in the Union before the prohibition and thereafter exported to a third country other than Russia (paragraph 11 of Article 3p).

Given that the exported products are now held outside of the Union, importers must provide documentary evidence proving that the products were physically located in the Union before the date of applicability of the respective prohibitions.

B. The products were located, polished or manufactured in a third country other than Russia before the prohibition (paragraph 12 of Article 3p).

Depending on the type of product, at the moment of importation into the Union, importers must provide the following evidence:

- for products falling under CN codes 7102 10 00, 7102 31 00 and 7104 21 00: evidence that the products had initially been imported into the third country before the date of applicability of the respective prohibition.

- for products falling under CN codes 7102 39 00 and 7104 91 00, as well as for products listed in Part C of Annex XXXVIIIA with unknown or Russian origin: evidence that the products had been finally processed or manufactured in the third country, or had been physically located in a processed or manufactured state in the third country before the date of applicability of the respective prohibition.

16. Where can I find more details on the grandfathering registry?

Last update: 20 December 2024

Operators registered in Belgium and holding diamond stocks in Belgium may opt to submit details of their stocks electronically to the authority listed in Annex XXXVIIIB (please see Question 9) for grandfathering. Before exporting such grandfathered diamonds to third countries, they need to be physically inspected by the authority listed in Annex XXXVIIIB, after which they will obtain, a GF certificate number.

Operators holding diamond stocks in other Member States may opt to obtain a GF-Certificate number prior to exportation, by submitting their shipment to the Authority listed in Annex XXXVIIIB for physical inspection accompanied by documentary evidence.

Please note that registering stock in the grandfathering registry is optional. Subsequent importation into the EU of exported diamonds eligible for grandfathering can also be done using documentary evidence supporting the grandfathered status of the diamonds (see Question 15).

For details on grandfathering in Belgium please consult guidance documents containing practical details on implementation of the grandfathering, here: https://www.awdc.be/en/grandfathering-guidelines

17. Will grandfathered diamonds receive a G7 certificate that I can use when exporting the diamonds?

Last update: 20 December 2024

No, grandfathered diamonds will not receive a G7 certificate. However, diamond operators may submit diamonds for registration to the authority in Annex XXXVIIIB in order to receive a 'GF' (Grandfather) certificate prior to their exportation from the EU. This GF certificate can be used upon subsequent importation into the EU.

18. What is the purpose of the new paragraph 13 of Article 3p?

Last update: 20 December 2024

Paragraph 13 of Article 3p contains an exemption which will allow to import jewellery for participation in trade fairs or for the purpose of repairs.

As noted above (see Questions 2 and 4) a prohibition on jewellery incorporating Russian diamonds processed in third countries (other than Russia) is not in place yet, but Article 3p provides that such a prohibition could be decided by the Council.

In that case (if and when the Council will decide to put in place the prohibition), the new paragraph 13 of Article 3p contains an exemption which would allow to import such jewellery (or other products listed in C of Annex XXXVIIIA) that was manufactured before the date of entry into force of the ban, for participation in trade fairs or for the purpose of repairs.

Until the moment that the prohibition will be put in place, the exemption does not apply.

To benefit from this exemption, the products have to be placed under the temporary admission, inward processing, outward processing or temporary export customs procedures when entering or exiting the Union. These are special customs procedures that deviate from definitive importation or exportation.

19. I have a rough diamond which has obtained a G7 certificate from the Authority for the verification of diamonds (listed in Annex XXXVIIIB) (i.e. Federal Public Service Economy at the Diamond Office, Belgium) and, after exportation, I would now like to subsequently import it into the EU. Upon subsequent importation, do I need to resubmit the same diamond again for verification to the Authority?
Last update: 20 December 2024

No. However, normal customs and Kimberley Process-related verification will still apply. According to Article 3p, paragraph 8, upon subsequent importation there is no need to submit the diamond for verification and certification at the Authority in Belgium (Diamond Office). Upon subsequent importation, it is necessary however to provide traceability-based evidence, including a G7 certificate.

13."NO RE-EXPORT TO RUSSIA" CLAUSE

RELATED ARTICLE: ARTICLE 12g OF COUNCIL REGULATION 833/2014

1. **What is the purpose of Article 12g and how does the "no re-export to Russia" clause work?**
   Last update: 22 February 2024

Article 12g aims to combat the circumvention of EU export bans and more specifically the situation where goods exported to third countries are re-exported to Russia. Many EU operators already insert "no re-export" clauses in their contracts, as a good practice within their basic due diligence. Article 12g turns this practice into a legal requirement for certain sensitive goods, improving legal certainty in the context of business negotiations and relations. It moreover creates a deterrent effect on those non-EU operators that redirect sanctioned EU goods to Russia, as in the future it exposes them for instance to contractual penalties.

Concretely, Article 12g obliges EU exporters to insert a "no re-export to Russia" clause in their export/sale/supply/transfer or similar contracts. This applies only to specific types of sensitive goods, including goods related to aviation, jet fuel (Annexes XI, XX to the Regulation), firearms (Annex XXXV to the Regulation, as well as Annex I to Regulation (EU) No 258/2012) and common high priority items[24] (Annex XL to the Regulation). For the geographical scope, see Question 4. To ensure its effectiveness, the "no re-export to Russia" clause must contain adequate remedies (see Question 5).

Exporters should not sell their products to any non-EU operator that is not ready to incorporate a "no re-export to Russia" clause in contracts falling under the scope of Article 12g.

Independently of the obligation established by Article 12g, operators should have in place strong due diligence frameworks to ensure sanctions compliance. In its notice of 1 April 2022[25], the Commission indicated that *"in view of the risk of circumvention, economic operators in the EU are advised to take adequate due diligence measures available in order to prevent circumvention of the [sanctions on Russia]"*. It further stated *that "due diligence measures that exporters and importers are advised to take are, for instance, the introduction in import and export contracts of provisions destined to ensure that any imported or exported goods are not covered by the restrictions. These may take the form of e.g. a statement that the respect of such provision is an essential element of the contract, or of contractual clauses committing the importer in third countries not to export the concerned goods to Russia or Belarus, and not to resell the concerned goods to any third party business partner that does not take a commitment not to export the concerned goods to Russia or Belarus giving rise to liability in case the latter re-exports the items to those countries*."

2. **How is the obligation in Article 12g verified and enforced?**
   Last update: 22 February 2024

EU exporters' contracts must comply with the obligation in Article 12g prior to or at the latest at the time of the export, sale, supply or transfer of the relevant goods to a third country. Exporters should be able to prove this if requested by their competent authorities.

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[24] https://finance.ec.europa.eu/publications/list-common-high-priority-items_en

[25] Notice to economic operators, importers and exporters (2022/C 145 I/01), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0401(04)

Moreover, paragraph 4 of Article 12g requires exporters to inform their national competent authorities as soon as they become aware of a breach or circumvention of the "no re-export to Russia" clause.

3. Does the obligation in Article 12g also apply to existing contracts?

Last update: 15 July 2024

The obligation to include the "no re-export to Russia" clause depends on the contract's date of conclusion.

Contracts concluded before 19 December 2023:

- Contracts that were already concluded when Council Regulation (EU) 2023/2878 came into force benefit from a one-year transition period until 19 December 2024 included or until the contracts' expiry, whichever is earliest. For any execution of these contracts as of 1 January 2025, they need to be amended to include the "no re-export to Russia" clause.

Contracts concluded as of 19 December 2023:

- These contracts must contain the "no re-export to Russia" clause as of 20 March 2024.

4. Does it matter in which country the non-EU operator is incorporated?

Last update: 15 July 2024

The obligation to include a "no re-export to Russia" clause applies to contracts with operators based in any non-EU country, with the exception of the partner countries listed in Annex VIII to Council Regulation (EU) No 833/2014.

As of 24 June 2024, Annex VIII includes the following partner countries: United States of America, Japan, United Kingdom, South Korea, Australia, Canada, New Zealand, Norway, Switzerland, Liechtenstein and Iceland.

Pursuant to Article 12 of Council Regulation (EU) No 833/2014, it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent sanctions law. Operators should also remain vigilant of any attempts by third parties to draw them into circumvention schemes. These considerations apply regardless of which non-EU country the counterpart is based in. If you believe you are witnessing sanctions violations or circumvention, these should be reported to your national competent authority or anonymously via the EU whistle-blower tool[26].

5. What does "adequate remedies" mean, in the context of paragraph 3 of Article 12g?

Last update: 18 December 2024

To ensure its effectiveness, the "no re-export to Russia" clause must contain adequate remedies to be activated in case of its breach. These remedies should be reasonably strong and aim to deter non-EU operators from any breaches.

An adequate remedy is, for instance, the possibility for EU operator to stop deliveries and to suspend, interrupt or terminate the contract as soon as it becomes aware of a breach by its contractual counterpart of its contractual commitment not to re-export the goods or technology concerned to Russia. By way of example, and without being cumulative, such adequate remedies

[26] https://EUsanctions.integrityline.com

may result in the suspension, interruption or termination of the contract, the application of financial penalties, or the determination of a competent court able to recognise this re-export as contrary to the provisions set out in the contract. See also the wording suggested in the answer to Question 6 below.

In parallel, according to paragraph 4 of Article 12g, as soon as they become aware of a breach, exporters must inform the competent authority of the Member State where they are resident or established.

6. Should operators use a specific wording for the "no re-export to Russia" clause?
Last update: 22 February 2024

Operators are free to choose the appropriate wording for the "no re-export to Russia" clause, as long as the outcome fulfils the requirements of Article 12g. In any event, it is recommended that the clause is identified as an essential element of the contract.

While it does not preclude the use of other wordings, the template below can be considered as meeting the obligation in Article 12g. It is recommended in particular for contracts with non-EU operators doing business in jurisdictions seen as posing a high risk of circumvention.

"(1) The [Importer/Buyer] shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014.

(2) The [Importer/Buyer] shall undertake its best efforts to ensure that the purpose of paragraph (1) is not frustrated by any third parties further down the commercial chain, including by possible resellers.

(3) The [Importer/Buyer] shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph (1).

(4) Any violation of paragraphs (1), (2) or (3) shall constitute a material breach of an essential element of this Agreement, and the [Exporter/Seller] shall be entitled to seek appropriate remedies, including, but not limited to:

(i) termination of this Agreement; and
(ii) a penalty of [XX]% of the total value of this Agreement or price of the goods exported, whichever is higher.

(5) The [Importer/Buyer] shall immediately inform the [Exporter/Seller] about any problems in applying paragraphs (1), (2) or (3), including any relevant activities by third parties that could frustrate the purpose of paragraph (1). The [Importer/Buyer] shall make available to the [Exporter/Seller] information concerning compliance with the obligations under paragraph (1), (2) and (3) within two weeks of the simple request of such information."

7. Is the inclusion of the "no re-export to Russia" clause also necessary for public contracts?
Last update: 15 July 2024

On 24 June 2024, the Council adopted Council Regulation (EU) 2024/1745 (part of the "14th sanctions package"), which set out an exemption for public contracts concluded by an exporter with a public authority in a third country or with an international organisation - see paragraph 2a in the amended Article 12g of Council Regulation (EU) No 833/2014. Exporters are not obliged to contractually prohibit the re-exportation to Russia and re-exportation for use in Russia in such contracts.

However, exporters are under the obligation to inform the national competent authorities of the Member State where they reside or are established in, of any public contracts that they have concluded which is benefitting from the above-mentioned exemption.

8. Does the exemption for public contracts in Art. 12g paragraph 2a apply to both existing and future contracts?
Last update: 18 December 2024

Yes, the exemption for contracts concluded by an exporter with a public authority in a third country or with an international organisation applies to both future and existing contracts.

9. Does the exemption for public contracts mean that EU operators are exempted from the notification's obligation for existing contracts?
Last update: 18 December 2024

The exemption for public contracts is coupled with the obligation to notify the national competent authorities, see paragraph 2b in the amended Article 12g of Council Regulation (EU) No 833/2014. The notification must be carried out within two weeks for newly concluded contracts.

For contracts concluded prior to the adoption of Council Regulation (EU) 2023/2878 ("12th sanctions package" on 19 December 2023), national competent authorities may request a notification wihtin an approbriate timeframe.

10. What information should be notified concerning public contracts?
Last updated: 18 December 2024

EU operators concluding a public contract subject to the exemption and notification requirement in Art. 12g paragraphs 2a and 2b should indicate the following information:

- Legal basis Article 12 g paragraph 2b of Regulation (EU) No 833/2014 in order to help national competent authorities to classify the notification;
- Contract partner, i.e. public authority in the third country or international organisation with which the public contract is concluded; and
- Subject matter of the contract (i.e. which goods referred to in Art. 12g paragraph 1).

11. Can operators use a general clause referencing not only to the re-exportation to Russia in their contracts?
Last update: 18 December 2024

Yes. A general clause prohibiting the re-exportation to countries subject to EU restrictive measures can be sufficient if the other requirements in Art. 12g are met, i.e. adequate remedies are indicated.

In the case of contracts concluded before 19 December 2023, a general clause aimed at respecting EU sanctions regimes can be sufficient if it is broad enough to cover the no re-exportation obligation as set out by Art. 12g.

12. How can the obligations set out in Article 12g be fulfilled if an operator faces persistent difficulties in inserting the "no re-export to Russia" clause in an existing contract due to the refusal of its contractual counterparty?
Last update: 18 December 2024

If an EU operator faces persistent difficulties in inserting the "no re-export to Russia" clause in a contract concluded before 19 December 2023 due to the refusal of their contractual counterparty, the obligation set out in Article 12g can be considered met, if the operator issues a unilateral communication to its client (meaning non contractually agreed) prohibiting the re-exportation to Russia and re-exportation for use in Russia.

However, this can be only valid in exceptional cases, for instance where:

- EU operators can demonstrate that they have applied their best efforts to include the clause; or where
- they have longstanding business relations with the counterparty and hence have a good understanding of the counterparty and they have done their adequate due diligence processes that minimises the risk of sanctions violations or circumvention; and/or where
- the national legislation of the third country where the counterparty is established in prevents such clauses; etc.

EU operators must also include a reference to possible adequate remedies which the EU operators could unilaterally activate in case of its breaches, see also Q. 5 and 6 above.

13. Do you need a "no re-export to Russia" clause in intra-EU contracts?
Last update: 18 December 2024

No. According to Article 12g, in the case of contracts in which only operators established in the European Union are involved and the delivery obligations are only to be performed within the European Union, there is no obligation to include a "no re-export to Russia" clause since all EU operators are bound by the EU sanctions (see also the wording 'to a third country').

14. Does the "no re-export to Russia" clause also cover returns/re-exports to a producer in the third country?
Last update: 18 December 2024

The "no re-export to Russia" clause is mandatory for the sale, supply, transfer or export of certain goods and technology as defined in Article 12g paragraph 1.

If the act in question requires the agreement of a "no re-export to Russia" clause, it also includes returns to e.g. producers in third countries. However, the transitional provisions and exemptions in Article 12g paragraphs 2 and 2a apply.

15. Can the “no re-export to Russia" clause be included in general terms and conditions?
Last update: 18 December 2024

The wording of Article 12g obliges the operators to agree in principle ‘contractually’ on the “no re-export to Russia" clause. If general terms and conditions are validly incorporated into the contract between the exporter and counter party, the requirements of Article 12g are met.

16. Does the exemption for public contracts concluded with public authorities pursuant to Art. 12g paragraph 2a also apply to public contracts concluded with companies controlled by public capital operating on behalf of the authorities?
Last update: 18 December 2024

The exemption for public authorities can be applicable for “bodies governed by public law”. Those entities are that are established for the specific purpose of meeting needs in the general interest and do not have an industrial or commercial character. In addition, they have legal personality and are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law; or are subject to management supervision by those authorities or bodies; or have an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law. If the entity fulfils the characteristics stated above, it can be considered equivalent to “a public authority” in the sense of the exemption in Art. 12g paragraph 2a.

17. Is it necessary to include the contractual clause for contracts concluded before 19 December 2023 which has been subject to an administrative export control procedure aimed at prohibiting the export or re-export of goods and technologies subject to Article 12g to jurisdictions targeted by EU restrictive measures?
Last update: 18 December 2024

No, in the case of existing contracts that have been authorised in a Member State of the European Union under an individual export control procedure (individual licence) including end/use(r) certificate and/or other reexport assurances, notably as regards the non-re-exportation to Russia and Belarus, it is not necessary to reopen the contract to add the contractual clause.

14. ENHANCED DUE DILIGENCE FOR OPERATORS MANUFACTURING AND/OR TRADING WITH CHP ITEMS

RELATED PROVISION: ARTICLE 12gb OF COUNCIL REGULATION 833/2014

1. What is the purpose of this measure?

Last update: 11 December 2024

The purpose of this measure is to strengthen the due-diligence of EU operators to respond to the problem of the re-exportation of common high priority (CHP) items, as listed in Annex XL to Regulation (EU) No 833/2014. These items are commonly found on the battlefield in Ukraine or critical to the development, production or use of Russian military systems.

It will furthermore give national competent authorities a tool to curb circumvention of EU sanctions through third countries.

2. Who is covered by this provision?

Last update: 11 December 2024

This provision **applies to** natural and legal persons, entities and bodies required to comply with EU sanctions as per Article 13 of Regulation (EU) No 833/2014 that sell, supply, transfer or export CHP items.

Pursuant to Article 12gb(2), this provision **does not apply** to natural and legal persons, entities and bodies that **only** sell, supply, transfer or export those items within the Union or to partner countries listed in Annex VIII to Regulation (EU) No 833/2014.

According to Article 12gb(3), this provision also applies to natural and legal persons, entities and bodies that own or control any legal person, entity or body established outside the Union that sells, supplies, transfers or exports common high priority items, unless otherwise excluded from the scope of the provision pursuant to Article 12gb(2) and (4).

3. What are CHP items and which prohibitions apply to them?

Last update: 11 December 2024

Common high priority (CHP) items are certain prohibited dual-use goods and advanced technology items used in Russian military systems found on the battlefield in Ukraine or critical to the development, production or use of those systems. These items include electronic components such as integrated circuits and radio frequency transceiver modules; they also include items essential for the manufacturing and testing of the electronic components of the printed circuit boards, and manufacturing of high precision complex metal components retrieved from the battlefield. These items are listed in Annex XL to Regulation (EU) No 833/2014.

There are several prohibitions and obligations that apply to trade with CHP items, namely

- a prohibition to sell, supply, transfer or export directly or indirectly to Russia,
- the obligation to contractually prohibit their re-export from third countries to Russia and re-export for use in Russia, and
- the obligation to contractually prohibit the use of intellectual property rights or trade secrets in connection with CHP items that are intended for export to Russia or for use in Russia.

4. **What do you recommend to EU operators in terms of conducting due diligence on the stakeholders and transaction?**
   Last update: 11 December 2024

There is no single model for conducting due diligence. EU operators should adapt their efforts to comply with the risks identified. This risk assessment and risk management approach should lead EU operators to adopt an effective yet proportionate approach.

As a general practice, whenever implementing due diligence (for example because EU operators' activity creates exposure to a particular risk), EU operators can make specific checks at different levels:

On the **stakeholders' level** (identification and verification of business partners, customers, their representatives, their beneficial owners and other possible persons of interest):

- Is there any proven business record of the company/business partner with which the EU operator intends to engage to know if the company is active in the business (e.g. information of yearly activity in the company register)?
- Is there any effort from the stakeholder to maintain sanctions through internal control systems / ensure sanctions compliance? For instance, does the stakeholder conduct due diligences?
- Who are the main stakeholders involved/relevant for the EU operator's business?
- Are any of the direct stakeholders (customers, distributors, agents etc.) or indirect stakeholders (end-user, intermediaries, banks etc.) targeted by EU sanctions? Are all stakeholders involved in the transaction known to the EU operator?
- If yes, has the stakeholder undergone changes in its ownership structure upon or after the adoption of sanctions? Was it set up or established after the introduction of the sanctions?
- Are these stakeholders affected in any way by sanctions through ownership or control by an entity under EU sanctions?
- Who is the end-user of the items? Can the end-use be confirmed and an end-user certificate be provided?

On the **level of the transaction and flows of money, as well as transportation/logistics and route of goods**:

- What is the country of transit and of destination? Is this country neighbouring Russia or Belarus, does it have easy transport/access (i.e. passport/shipping controls) to Russia or Belarus, or is it otherwise known to re-export goods to those jurisdictions? Should the export to these countries be subject to enhanced vigilance/end-use controls?
- Are complex/unusual transportation routes being used?
- Has the value of goods changed since the imposition of sanctions? Has the method of trading/transacting changed, for example the contract conditions?
- What is the business rationale for the transaction? Does the transaction or shipment seem in line with expectations regarding the (prospective) customer from a business perspective? Or does the transaction or shipment seem unjustified from a business perspective (e.g. unexpected surges in demand from destinations without a known market for specific products)?
- Does the transaction use complex financial schemes which are not justified by its purpose?
- Has the method of transport/shipping changed since the imposition of sanctions?

- Are there unusual or abnormal elements in the documentation that do not match (for example between financial documents and the contract)?
- Any other red flag, based on your knowledge of the business sector?

5. **What risk factors indicating that their CHP items might be re-exported to Russia or for use in Russia should operators consider?**
   Last update: 11 December 2024

There are several risk factors that operators manufacturing or trading with CHP items should consider to prevent that goods are re-exported to Russia. These risk factors depend for instance on the customers' nature (end-user, distributor etc.), the countries or geographic areas where the customers are located (and whether these locations are known to have high trade exposure to Russia), as well as the products, services, transactions or delivery channels. More specifically, operators trading with CHP items should consider the following indicators when they enter into a commercial relationship with a trading partner:

- Indirect transactions (such as those using intermediaries, shell companies etc.) that make no or little economic sense;
- New customer / transactions with companies located in countries known as "circumvention hubs" and involving items listed as CHP items;
- Transit through countries or territories known as "circumvention hubs", based on the information publicly available. Specific measures can be taken depending on the role and responsibility of the operator, for example:
  - exporter who uses an external transport company: checks regarding the type of means of transport use, routings, use of sub-contractors etc.
  - transport company that is responsible for the transport of the cargo: checks regarding the actual goods to be transported; match with documentation etc.
- Complex corporate or trust structures established in countries friendly to Russia or whose complexity is not coherent with the business profile of the customer. Use of trust arrangements or complex corporate structures involving offshore companies;
- Business partner has been recently established or has merged with a sanctioned entity or an entity linked to sanctioned entities or natural persons;
- Business partner shares address with multiple different companies (i.e. it is likely a shelf company);
- Recent change of ownership of a corporate holding to reduce ownership stakes below the 50 percent threshold;
- Change of ultimate beneficial owner shortly before or after sanctions were imposed;
- Movement of assets previously associated with a sanctioned individual, by family members or otherwise on their behalf;
- Numerous transfers of shares from sanctioned entities to non-sanctioned entities involving corporations incorporated by the same natural person or entity (often with a registered office at the same physical address);
- Potential control of an entity by a sanctioned individual, despite apparent direct ownership under the 50 percent threshold (member of Board of Directors, beneficial owner, managing director, other entities or persons on the ownership structure linked with a designated person); or
- CEO/manager is never available for discussions, i.e. all communications go via a regular employee or a representative who seems to have a general Power of Attorney (PoA).

6. **What is the meaning of 'appropriate steps' in paragraph 1(a)?**
   Last update: 11 December 2024

"Appropriate steps" means those actions, processes and practices that enable economic operators to collect and process information in order to identify and assess the relevant risk factors of re-exportation of CHP items to Russia and take measures to address these risks (see question 7).

This should be carried out on a regular basis, taking into account for instance information from the public domain on the evolution of re-exportation of CHP items to Russia or for use in Russia. While some of the relevant information may be hidden or difficult to detect, EU operators should conduct a strategic risk assessment, following these successive steps:

Identification of threats and vulnerabilities: EU operators should stay alert to the main techniques used by Russian actors to obtain CHP items of EU/G7 origin, as well as to emerging patterns to that end. They should also map out the types of products, transactions and economic activities within their range of services that are at risk of being involved in the re-exportation of CHP items to Russia or for use in Russia.

Risk analysis: Operators should assess the nature of the risks to which their sector, products and economic activities are exposed, and understand how those risks can materialise. To this end, they may use risk indicators, typologies and any other relevant information that is publicly available or forms part of their specialised knowledge.

Regular updating: The increasing complexity of the methods through which CHP items are re-exported to Russia require that the mapping of threats and vulnerabilities is updated whenever necessary, for instance when sanctions are amended or new sanctions are adopted, and in any case on a regular basis. This requires that the operator has satisfactory procedures in place for following and keeping track of the necessary information (for example, sanctions legislation, circumvention techniques, circumvention trade flows) up-to-date. The training of staff on these issues is of critical importance as well. Moreover, it is recommended that the senior management of a company is personally involved and informed regularly by its compliance team on risks identified and measures taken (risk assessment and risk management).

7. **Which appropriate policies, controls and procedures should EU operators implement to comply with paragraph 1(b)?**
   Last update: 11 December 2024

After having identified and assessed the relevant risk factors in accordance with paragraph 1(a), EU operators should take action to mitigate such risks. This should be carried out on a regular basis and EU operators should follow these successive steps:

Design of mitigating measures: How can the risks be prevented? What are the measures to implement in order to mitigate these risks? Which are the relevant national authorities to provide guidance?

Examples of mitigating measures: end-user certificate, references from trusted partners (or authorities), asking for documentation from the business partners, contractual clauses to prevent circumvention.

Implementation of mitigating measures: To mitigate the risk of re-exportation of CHP items to Russia or for use in Russia, EU operators that identify higher risk areas in their business may proactively incorporate, as appropriate, the results of the risk analysis and the design of

mitigating measures into their internal risk management practices and procedures and put in place controls to test the effective functioning of those procedures.

8. **What is the difference between the due-diligence procedures that are developed in this document and the *"European Commission Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention"* published in 2023?**
   Last update: 11 December 2024

The guidance published in 2023 aims at providing a general overview of the main points of consideration for EU operators in view of their due-diligence work and is intended to support their compliance efforts. It is addressed to all EU operators and it is focused on tackling circumvention.

In the meantime, Article 12gb has set out a legal obligation for operators dealing with CHP items to have in place adequate due-diligence procedures.

The information in this FAQ document is largely based on the guidance published in 2023. However, in this case, the focus is on re-exportation to Russia of CHP items and on measures that economic operators trading with such items are expected to take as part of their due-diligence efforts.

Please see the European Commission Guidance for EU operators: Implementing enhanced due diligence to shield against Russia sanctions circumvention.

9. **What is the meaning of "proportionately to their nature and size" in paragraphs 1(a) and 1(b)? Which factors play a role and what is the corresponding level of efforts that operators of various natures and sizes should carry out?**
   Last update: 11 December 2024

There is no one-size-fits-all model of due diligence. The type of due diligence that is conducted may depend – and be calibrated accordingly – on the business sector and the related risk exposure. It is for each operator to develop, implement, and routinely update an EU sanctions compliance programme in light of its individual business model, geographic and sectoral areas of operations and related risk assessment.

The depth and complexity of actions expected from each EU operator depend on the operator's (i) nature and (ii) size.

The operator's nature reflects various elements such as its status as a natural or legal person, its market sector, risk profile and turnover. The operator's size reflects various elements such as the number of staff, or the compliance resources that the company can afford, considering its financial capabilities. Such elements should be taken into consideration together.

It is up to each national competent authority to provide specific guidance on the level of obligation from operators under its jurisdiction and to recommend possible actions.

10. **Which additional policies, controls and procedures as referred to in paragraph 1(b) are to be implemented by CHP operators, other than existing requirements under anti-money laundering (AML) and corporate social responsibility (CSR) legislation?**
    Last update: 11 December 2024

The policies, controls and procedures referred to in paragraph 1(b) should include the development of internal policies, controls and procedures, including model risk management practices, customer due diligence ("know your customer" - KYC), product life-cycle monitoring and tracking, reporting from the compliance team to the management and reporting from commercial counterparts, record-keeping, internal control, compliance management and in some cases, where appropriate with regard to the size and nature of the business, the appointment of a compliance officer at management level, and employee screening. EU operators should ensure that their staff are regularly trained.

11. When are risks of exportation regarded as "effectively mitigated/managed"?
Last update: 11 December 2024

Risks can be considered as mitigated/managed if the EU operators' due diligence has not led to the detection of any red flags, or when mitigating measures have been implemented to address the red flags.

By adopting a risk assessment and risk management approach to the re-exportation of CHP items to Russia, EU operators are supposed to ensure that the measures taken to prevent or mitigate circumvention are commensurate with the risks identified. The implementation of risk assessment and risk management should also enable EU operators to concentrate their efforts on the most sensitive cases and thus allocate their resources in the most effective way.

See also the notice to operators of 1 April 2022.

12. How can national competent authorities enforce this provision?
Last update: 11 December 2024

National competent authorities may carry out routine checks to verify whether EU operators are implementing this provision.

If a CHP item exported from the EU to a third country is then found to have reached Russia, the competent authorities may consider the EU exporter's failure to conduct adequate due diligence as a violation of EU sanctions law. Any suspicious activity in the field of trade with CHP items should be reported, in line with legal requirements, to the relevant national authority, such as financial intelligence units, customs and border authorities or relevant supervisory authority, if any, in line with Article 6b(1) of Regulation (EU) 833/2014.

13. When does paragraph 2 apply? Are these companies subject to due diligence obligations?
Last update: 11 December 2024

It is considered that natural and legal persons, entities and bodies that **only** sell, supply, transfer or export CHP items within the Union or to partner countries listed in Annex VIII to Regulation (EU) No 833/2014 present a relatively low risk of circumvention. Therefore, they are excluded from the scope of Article 12gb.

14. What is expected from EU operators regarding the obligations under paragraph 3?
Last update: 11 December 2024

Paragraph 3 indicates that **any** natural person or entity required to comply with EU sanctions as per Article 13 of Regulation (EU) No 833/2014 **must ensure** that any non-EU legal person,

entity or body that they own or control and that sells, supplies, transfers or exports CHP items implements the requirements in points (a) and (b) of paragraph 1.

This should be read in conjunction with Article 8a of Regulation (EU) No 833/2014, which requires EU operators to undertake their best efforts to ensure that any non-EU legal person, entity or body that they own or control does not participate in activities that undermine the sanctions in the Regulation.

This provision should be understood as comprising only actions that are feasible for the Union operator in view of its nature, its size and the relevant factual circumstances, in particular the degree of effective control over the legal person, entity or body established outside the Union. Such circumstances include, in accordance with paragraph 4, the situation where the EU operator, due to reasons that it did not cause itself, such as the legislation of a third country, is not able to exercise control over a legal person, entity or body that it owns.

15. **Which is the link between this provision and Article 12g, the 'no re-export to Russia' clause?**
Last update: 11 December 2024

While Article 12g sets an obligation to contractually prohibit the re-exportation to Russia and re-exportation for use in Russia of sensitive goods and technology, CHP items, or firearms and ammunition, Article 12gb only focuses on CHP items and sets a due diligence obligation for operators involved in trade with such items.

The implementation of Article 12gb does not replace the requirements of Article 12g.

E. ENERGY

1. OIL IMPORTS

RELATED PROVISIONS: ARTICLES 3m AND 3n OF COUNCIL REGULATION 833/2014

1. **Does paragraph 1 of Article 3m prohibit the transport of goods listed in Annex XXV of Council Regulation (EU) 833/2014 also to third countries?**
   Last update: 30 June 2023

No, as clarified in recital 15 of Council Regulation (EU) 2022/879, the transport of the goods in Annex XXV is only prohibited into the Union. However, as set out in Article 3n, maritime transport, including through ship-to-ship transfers, to third countries, as well as technical assistance, financing or any financial assistance in relation to such transport to third countries is prohibited, unless such goods were purchased at or below the price cap.

2. **Does Article 3m prohibit imports into the Union, including by pipeline, or the purchase or transfer, of goods listed in Annex XXV which originate in a third country but are mixed during transport with goods listed in Annex XXV and which originate in Russia?**[27]
   Last update: 30 June 2023

Article 3m paragraph 1 prohibits, subject to certain exceptions and derogations, imports of goods set out in Annex XXV if such goods originate in Russia or are exported from Russia. It does not prohibit the import into the Union, including by pipeline, of oil originating in another third country, for example in Kazakhstan.

It is therefore necessary to determine if the product originates in Russia. For this purpose, the non-preferential rules of origin of the EU apply. EU operators should exercise appropriate due diligence in assessing the origin of the oil and should rely on documentation at their disposal to determine the origin of the oil, which may include certificates of origin.

Russian oil transported together with oil of other origin in mixed fashion is subject to the prohibition. However, as a consequence of transportation through a pipeline that serves both non-Russian and Russian origin productions, oil originating in a third country can be mixed for technical reasons with Russian originating oil, due to infrastructural constraints. Such mixing should not increase or facilitate the production and or marketing of Russian-origin oil, nor generate any avoidable financial flows or indirect benefits in favour of Russian actors for the Russian-origin oil transported via the pipeline, excluding the necessary transportation costs.

In such a case, as oil is a fungible material that cannot be physically segregated once mixed, a quantity corresponding to the volume not originating in Russia can be allowed into the Union if the share of the transported oil which does not originate in Russia can be clearly demonstrated

[27] See also recital 21 of Council Regulation (EU) 2022/879 of 3 June 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, OJ L 153, 3.6.2022, p. 53–74.

to the national authorities of the Member State, for instance through documentation proving the exact volume of oil originating in the non-Russian third country, such as a certificate of origin.

Therefore, the import into Member States of oil of Kazakh origin, as proven by a certificate of origin or other documentation providing evidence on the origin of the product, including by pipeline is allowed. Such import may contain some unavoidable Russian oil residue for technical reasons or infrastructural constraints. Its import into the Union is allowed and does not fall withing the scope of Article 3m.

Economic operators and Member States, in cooperation with exporting third countries, need to exercise sufficient care and investigation to comply with EU restrictive measures.

3. **Does Article 3m prohibit the import into the EU of petroleum products falling under HS 2710 which have been produced using crude oil originating in Russia?**
   Last update: 22 June 2022

As regards petroleum products under HS 2710, only those which originate in Russia or are exported from Russia fall under the general prohibition set out in Article 3m paragraph 1.

An analysis of the production process and proportion of the components used is needed to determine the origin. For example, refined petroleum products obtained in a third country **falling under HS 2710** from Russian crude oil **falling in HS 2709** and exported from that country or another third country would not be subject to the sanctions as it is not of Russian origin.

Petroleum products **falling under HS 2710** obtained in a third country mixing Russian oil **falling under HS 2710** and locally produced oil exported from that third country could be subject to the sanction depending on the proportion of the Russian component. A case-by-case analysis is needed to see if the rule of origin is satisfied.

4. **In Article 3m paragraph 9, could you clarify what is meant by the "essential needs of the purchaser in Russia"?**
   Last update: 22 June 2022

The exception laid down in paragraph 9 allows EU natural or legal persons situated in Russia, which are bound by the sanctions by application of Article 13(c) and (d) of Regulation 833/2014, to purchase goods listed in Annex XXV for their own daily consumption, for instance to refuel their car or heat their homes. This would typically apply to EU tourists visiting Russia, EU expats living in Russia, EU humanitarian aid providers etc. It would also apply to a branch of an EU company in Russia which would need to purchase the goods for its own use. It would not cover however purchases of such goods for resale or refining for example.

5. **Can an EU operator resell goods set out in Annex XXV which were imported into the Union prior to 4 June 2022?**
   Last update: 22 June 2022

Yes, the prohibition set out in Article 3m does not apply to goods which were already released for free circulation within the territory of the Union prior to 4 June 2022.

6. **What sort of situation does the exception set out in article 3m paragraph 3c) cover?**
   Last update: 22 June 2022

This provision clarifies that the import prohibition as set out in paragraph 1 and 2 of Article 3m does not apply to goods listed in Annex XXV which do not originate in Russia and are not owned by a Russian natural or legal person, but which for the purpose of their export to the EU have been loaded in Russia or have departed or transited through Russia.

7. **How can the prohibitions to resell, transfer or transport set out in paragraph 7 and 8 of article 3m be enforced, in particular as regards resales, transfers or transport to other Member States?**
   Last update: 22 June 2022

EU operators and national authorities must conduct appropriate due diligence before purchasing goods listed in Annex XXV from other Member States which benefit from the exceptions laid down in Article 3m(3)(d) (crude imports by pipeline) or from the specific derogations set out in paragraphs 5 and 6 (for Bulgaria) and (Croatia). When purchasing such goods, they should do the necessary checks to ensure that such goods do not originate from Russia, are not exported from Russia or are not petroleum products (CN 2709 10) which are obtained from crude oil originating or exported from Russia.

8. **Does the prohibition to transfer or transport to other Member States or third countries refined petroleum products as from 5 February 2023 obtained from crude oil imported by pipeline also cover blended products, which are the result of refining of Russian crude oil and crude oil from another country?**
   Last update: 22 June 2022

Yes, the prohibition applies to blended products. Where the oil is mixed in line with the procedure described in question 2, the approach in the answer to question 2 should be followed.

9. **Does Article 3m allow the import into the EU of oil from a third country other than Russia by a pipeline which would transit through Russia using its infrastructure?**
   Last update: 30 June 2023

There are currently no restrictions on the import into the Union by a pipeline of oil from a third country, other than Russia, which would transit through Russia using its infrastructure. Article 3m only applies to oil originating or exported from Russia. However, if such oil from a third

country is blended with oil originating in Russia, the approach specified in question 2 should be followed.

10. **Does the prohibition to transfer or transport crude oil delivered by pipeline to other Member States or third countries also prohibit the purchase of oil by a Member State via an intermediary company based in another Member State?**
    Last update: 22 June 2022

The prohibition of resale set out in paragraph 8 of Article 3m does not apply to situations where a Member State purchases its crude oil using a company based in another Member State provided that this intermediary does not receive the physical delivery of the oil. Indeed, Article 8 prohibits the transfer or transport of crude oil delivered by pipeline into Member States to other Member States. If there is no delivery of the oil into the Member State where the intermediary is based, the use of an intermediary does not fall under the resale prohibition set out in paragraph 8.

11. **Does the notification obligation of contracts executed during the transitory periods laid out in Articles 3m (3)(a) and (b) in particular regarding 'ancillary contracts' require also the notification of insurance contracts or contracts for the services accompanying the maritime transport ?**
    Last update: 22 June 2022

No, such an interpretation would create an unreasonable administrative burden on EU operators involved as well as on national competent authorities. Only contracts for the import of the goods should be notified.

12. **Does Article 3m allow the transfer or transport to other Member States or to third countries of crude oil originating in or exported from Russia and delivered by pipeline during the transitory periods set out in Article 3m paragraph 3(a) and (b)? How about refined products obtained from such crude oil?**
    Last update: 22 June 2022

As regards crude oil (CN 2709 00), the transfer or transport of such crude imported by pipeline to another Member State or third countries is prohibited from the entry into force of the Regulation (4 June 2022) as set out in paragraph 8. For petroleum products (CN 2710) obtained from such crude oil, the prohibition only applies as of 5 February 2023, with a longer transition time concerning Czechia (see also question 8 above).

The transfer or transport of petroleum products (CN 2710) refined from crude oil imported by pipeline to another Member State or third country during the transition period of 8 months is not prohibited.

13. **How shall the term 'one-off transaction for near-term delivery' be understood?**
Last update: 22 June 2022

'One-off transaction for near-terms delivery' should be understood as spot market transactions. The contract concluded cannot foresee multiple deliveries and the oil should be delivered within 30 days maximum after the transaction has been concluded.

14. **Regarding such one-off transactions, when should these be notified?**
Last update: 22 June 2022

The Regulation foresees their notification within 10 days of their completion. This should be understood as within 10 days of the final delivery of the goods.

15. **How should the prohibition in Article 3m(7) and (8) of Regulation (EU) 833/2014 to transfer, transport or sell, as of 5 February 2023, petroleum products obtained from Russian crude imported by pipeline or on the basis of a derogation granted by national competent authorities be implemented?**
Last update: 4 February 2023

In order to meet the technical requirements of refineries in some Member States which still import crude oil from Russia , and to ensure the security of fuel supply in the region, compliance with this prohibition may be ensured over a one-year period. For that purpose, a reporting mechanism should be set up at national level, which would apply to operators from the refining sectors and to traders active in sale and export from these Member States.

The reporting of products refined and exported may be done on an aggregated basis using a mass balance approach. In such a case, Member States should ensure that the volume of total exportable products falling under CN 2710 within the total production is no more than the total volume of products obtained from feedstocks other than Russian crude.

National authorities should report to the Commission on compliance with the prohibition at mid-term (6 months after 5 February 2023).

Operators purchasing refined petroleum products from refiners situated in these Member States should reassure themselves that their suppliers sell their products in compliance with the above-mentioned requirements.

This does not apply to the exports from Hungary, Slovakia and Bulgaria to Ukraine of certain products, which may benefit from a derogation as set out in paragraphs 7 and 8.

16. **Does Article 3m(2) prohibit technical assistance, brokering services, financing or financial assistance or any other services related to operation and maintenance of pipelines (and associated infrastructure) in Russia used to transport crude oil or petroleum products, as listed in Annex XXV.**
Last update: 30 June 2023

No. Article 3m(2) does not apply to the operation and maintenance of a pipeline nor associated infrastructure in Russia, even if it is transporting oil or petroleum products. Article 3m relates to technical assistance, brokering services, financing or financial assistance or any other services related to the import, transfer or purchase of oil and petroleum products if they originate in Russia or are exported from Russia, not to the pipelines transporting them (nor associated infrastructure necessary for such transport) since these are not listed in Annex XXV.

At the same time, the relevant provision is Article 3(1) which addresses goods or technology, as listed in Annex II. Article 3(2) addresses technical assistance, brokering services or other services, financing and financial assistance related to such goods and technology. Pipelines are among the goods listed in Annex II. However, Article 3(3)(a) provides that the prohibitions in Article 3(1) and 3(2) shall not apply when such goods, technology or services are necessary for the transportation of natural gas and oil, including refined petroleum products, unless prohibited by other provisions, from or through Russia. Consequently, Article 3(3)(a) allows for the technical assistance, including the operation and maintenance of a pipeline which would transport crude oil or petroleum products from or through Russia into the Union, unless it is prohibited under Article 3m and 3n. Such technical assistance is not prohibited by Articles 3m and 3n.

17. Can a vessel operate ship-to-ship transfers of Russian oil in EU territorial waters, including its internal waters?
Last update: 2 August 2023

Article 3m prohibits the purchase, import or transfer of Russian oil or petroleum products into Member States[28]. Ship-to-ship transfers (STS) could be characterised as either purchase, import or transfer, as the case may be.

In any event, such STS go beyond the mere transit of the territory of the Union and their practice does not fall under the scope of the right of innocent passage. Such STS are therefore prohibited in territorial waters, internal waters and ports of Member States, irrespective whether the oil is:

i. transported by EU or non-EU vessels,
ii. destined for the Union or a third country, or
iii. purchased at or above the price cap.

Beyond the territorial waters of a Member State, and in accordance with Article 3eb(2), any vessel that has not notified a ship-to-ship transfer within the EEZ or up to 12 nautical miles from the baseline shall be prohibited from accessing ports or locks of the Union.

[28] Recital 15 of Council Regulation (EU) 2022/879 of 3 June 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

18. **Can a vessel operate ship-to-ship transfers of Russian oil in the EEZ of a Member State or within 12 nautical miles from the baseline of that Member State's coast?**
Last update: 2 August 2023

In accordance with Article 13, EU sanctions apply throughout the territory of the Union including its territorial waters. Beyond the territorial waters, in accordance with Article 3eb(2), any vessels performing such transfers of Russian oil must notify these to the relevant Member State. Absent such notification, port access is prohibited.

Article 3eb(2) does not affect the prohibition to import Russian oil set out in Article 3m.

In addition, if an EU operator is involved, such STS transfers must comply with the price cap in line with paragraphs 1 and 4 of Article 3n.

2. REPORTING OBLIGATIONS UNDER THE OIL IMPORT RESTRICTIONS

RELATED PROVISIONS: ARTICLE 3m(3) a&b and 3m(10) OF COUNCIL REGULATION 833/2014

1. **Should ancillary contracts be reported?**
   Last update: 26 July 2022

At this stage, ancillary contracts do not need to be reported as this would create an unreasonable administrative burden on EU operators involved as well as on national competent authorities. Only import contracts are to be notified via the relevant common templates (cf also Q.13).

2. **In the case of an import by a Member State but where the final delivery is in another Member State, should the Member State receiving the goods report all the delivery or only the amounts for delivery in its own territory?**
   Last update: 26 August 2022

Regarding cascading contracts, in order to avoid duplication of reporting between Member States, the import should only be reported by the Member State releasing the goods for free circulation, even if the goods are for further delivery in another Member State.

3. **Could the Commission specify what use will be made of these notifications? In particular, will the reporting be anonymised or kept confidential?**
   Last update: 26 July 2022

The aim of the reporting obligation included in Art. 3m(3) is to monitor the flows of oil still entering the EU after the ban on seaborne oil established with the 6th sanctions package adopted on 3 June 2022. The data provided by Member States will remain confidential except for some very high level aggregated numbers referring to the total EU level of oil imports.

4. **How should the obligation to report to the Commission on one-off transactions for near-term delivery within 10 days from its execution be implemented? The transactions will have different dates of execution, so do they need to be notified one by one?**
   Last update: 26 July 2022

We invite you to refer to the consolidated Frequently Asked Questions, and, specifically, to questions 13 and 14 of the "Oil Imports" section. 'One-off transactions for near-term delivery' should be understood as spot market transactions. This implies that the contract concluded cannot foresee multiple deliveries and that the oil should be delivered within 30 days maximum after the transaction has been concluded. Member States should notify at the latest 10 days after the delivery. This reporting can be done by batches of several one-off transactions, for instance in the form of a weekly reporting to the Commission. Furthermore, the reporting cannot be done

less than every 10 days in order to comply with the obligation to report within 10 days of the delivery date.

5. **Which moment should be the starting point for the 10-days deadline for notification of the one-off transaction for near-term delivery – e.g.: the date of agreement, invoice, customs clearance, receipt of the goods by the buyer or its operation installation?**
   Last update: 26 July 2022

We invite you to refer to the consolidated Frequently Asked Questions, and, specifically, to question 14 of the "Oil Imports" section. The Regulation foresees their notification within 10 days of their completion. This should be understood as within 10 days of the delivery of the goods, taking into account the guidance set forth in questions 2 and 12.

6. **Should individual companies be in charge of reporting contracts for the import of goods? If yes, to whom should they report them within the Commission?**
   Last update: 26 July 2022

Individual companies should not report the concluded contracts to the Commission. They should report them to Member States who will then report all of the contracts concluded for the import of oil into their own territory to the Commission, using a common template.

7. **Is the Commission interested to know which 'Incoterms' conditions are relevant per specific contract?**
   Last update: 26 July 2022

No, as the aim of the reporting obligation included in Art. 3m(3) is to monitor the flows of oil entering the EU after the ban on seaborne oil established with the 6th sanctions package adopted on 3 June 2022, and not to monitor the specific conditions of each concluded contract.

8. **Regarding the date of conclusion of contracts, should the Member State report the date of the overarching contract, the most recent addendum, the date of signature or the starting date of contract?**
   Last update: 26 July 2022

The Member State should report the date of the signature of the initial contract.

9. **Regarding the total volume to be delivered in the case of pre-existing contracts, which volume should be reported? A contract specifies total volume/per year and the volume per delivery/month or per delivery.**
   Last update: 26 July 2022

Companies should report to the concerned Member States the volume per contract and if available the volume per single delivery.

10. **As regards pre-existing contracts, should companies subsequently notify follow on deliveries taking place pursuant to the contract but after the contract notification?**
Last update: 26 July 2022

No. The reporting obligation is for contracts, so that once a contract with a given capacity has been notified, there is no need to make a second notification to the Member State.

11. **Which economic operator should report sales transactions of petroleum products to the national competent authority so that the authority can notify the contract or one-time transaction to the European Commission?**
Last update: 26 August 2022

It is for the economic operator in the Member State relasing the goods for free circulation to notify to the competent authority, indicating the country of destination of the cargo, if different.

12. **Which Member State should notify the European Commission of a single transaction or agreement when it concerns the sale of petroleum products by a company of a Member State to a company of another Member State?**
Last update: 26 July 2022

The transaction should be reported by the Member State in which the goods first entered the EU's customs territory, even if the goods are for further delivery in another Member State. The template includes a column in which the Member State of destination should be declared.

13. **Are agreements on the transportation of petroleum products originating in Russia, on the storage of petroleum products originating in Russia, and on technical assistance for such petroleum products subject to notification under Article 3m(3)(b)?**
Last update: 26 July 2022

No, only contracts for the import of the goods should be notified.

14. **If a Member State imports oil only via pipelines, is it bound by the notification obligation provided for in Article 3m(3)?**
Last update: 26 July 2022

The notification obligation for imports via pipelines is established by means of Article 3m(10), cf question 16 .

15. **Does the reporting obligation also apply to contracts for the import of petroleum products derived from crude oil extracted in Russia and produced in third countries other than Russia?**
Last update: 26 July 2022

We invite you to refer to question 3 of the “Oil Imports” section of the consolidated Frequently Asked Questions. Refined petroleum products obtained in a third country falling under HS 2710

from Russian crude oil falling in HS 2709 and exported from that country or another third country would not be subject to the sanctions as not of Russian origin. Petroleum products falling under HS 2710 obtained in a third country mixing Russian oil falling under HS 2710 and locally produced oil exported from that third country could be subject to the sanctions depending on the proportion of the Russian component. A case-by-case analysis is needed to see if the rule of origin is satisfied. However, were the products not to be considered of Russian origin, then no reporting obligation would be required.

16. **Pipeline oil imports, reporting under art.3m(10) by 8 June 2022 and every three months thereafter: reporting period covered**
    Last update: 26 July 2022

It is suggested that reporting spans the three full months before the 8th of the three-month reporting period so that the remaining 8 days can be used to gather data, compile them in the reporting template and notify (for example, the next reporting to be provided on 8 September 2022 would cover the months of June, July and August with reporting stopped on 31 August 2022).

3. GAS IMPORTS

RELATED PROVISIONS: RUSSIAN PRESIDENTIAL DECREE No 172; COUNCIL REGULATION 833/2014

1. **Why is the adoption of the Russian Presidential Decree no 172 of 31 March relevant for EU gas importers in light of Council Regulation (EU) 833/2014?**
   Last update: 22 April 2022

The Decree of 31 March substantially amends the legal framework for the execution of supply contracts concluded between Russian gas suppliers and EU companies, adding new obligations for each EU company.

EU Companies can only lawfully comply with implementation measures of the new Decree if the compliance with these measures is not in conflict with the obligations arising from the restrictive measures under Council Regulations (EU) 833/2014 or 269/2014.

2. **Why could the compliance with the rules of Decree no 172 of 31 March be in conflict with the sanctions?**
   Last update: 22 April 2022

The Decree introduces a new payment procedure, whereby the deposition of Euros or Dollars on the supplier's account is no longer considered as fulfilment of the contractual obligations. Instead, Euros or Dollars received by EU companies need to be converted into roubles under the Decree, and EU companies are only deemed to have fulfilled their contractual obligations once the conversion process from Euros or Dollars has been successfully completed, and the payment has been made in roubles.

This process, which is entirely in the hands of the Russian authorities, would also allow Russia to involve the Russian Central Bank in this process, through a number of transactions linked to the management of the Central Bank's assets and reserves, which is prohibited under the EU sanctions. As the conversion process may take an undefined amount of time, during which time the foreign currency is entirely in the hands of the Russian authorities including the Central Bank, it may even be considered as a loan granted by EU companies.

3. **Is it still possible to pay for gas after the adoption of Decree no 172 of 31 March without getting in conflict with EU law?**
   Last update: 22 April 2022

Yes, this appears possible. EU companies can ask their Russian counterparts to fulfil their contractual obligations in the same manner as before the adoption of the Decree, i.e. by depositing the due amount in Euros or Dollars. The Decree of 31 March does not preclude a payment process which is in line with the EU restrictive measures. However, the procedure for derogations from the requirements of the Decree is not clear yet.

4. **Are EU gas importers allowed to engage with Gazprom and GazpromBank in order to seek an acceptable solution or additional information on the situation? Are they allowed to open an account in euro with GazpromBank for gas payments?**
   Last update: 22 April 2022

The existing sanctions do not prohibit engagement with Gazprom or GazpromBank, beyond the refinancing prohibitions relating to the latter, as per Article 5(1)(a) and (6). Likewise, they do not prohibit opening an account with GazpromBank. Such engagement or account, however, should not lead to the violation of other prohibitions in Council Regulations (EU) 833/2014 or Council Regulation 269/2014.

5. **Can EU operators make transfers in euros to the specified account at GazpromBank if they previously or simultaneously make a clear statement to the effect that their payment obligation ends with this transfer?**
   Last update: 22 April 2022

Yes, EU companies could make a clear statement that they intend to fulfil their obligations under existing contracts and consider their contractual obligations regarding the payment already fulfilled by paying in euros or dollars, in line with the existing contracts, as before the adoption of the Decree.

It would be advisable to seek confirmation from the Russian side that this procedure is possible under the rules of the Decree.

4. ENERGY FINANCING

RELATED PROVISION: ARTICLE 3a OF COUNCIL REGULATION 833/2014

1. **Does the prohibition to finance the Russian energy sector only apply to new projects or also to new/additional investments in existing projects?**
   Last update: 22 April 2022

The prohibition in Article 3a of **Council Regulation 833/2014** refers to all new investment across the Russian energy sector and also imposes restrictions on further investments in already existing projects. The prohibition foresees limited exceptions for when such investments are necessary for ensuring critical energy supply within the Union or for the necessary transport of certain energy products into the Union.

2. **Article 3a(b) of Council Regulation 833/2014 prohibits granting of being part of any arrangement to grant "any new loan or credit or otherwise provide financing, including equity capital, to any legal person, entity or body incorporated or constituted under the law of Russia or any other third country and operating in the energy sector in Russia […] ". Does this prohibition also cover companies incorporated in the Union which continue to a have global operations, including in Russia?**
   Last update: 22 April 2022

No, it does not. "Third country" refers to non-EU countries. This provision does not prohibit investments in EU-based companies.

3. **Does the provision in Article 3a(1)(b) prohibit drawdowns or disbursements made under a loan, credit or a financing contract concluded before the entry into force of the prohibition (16 March 2022)?**
   Last update: 22 April 2022

The general purpose of Article 3a is to restrict the development of new projects in the energy sector in Russia. To this end, Article 3a(1)(b) prohibits new loans and credits to any legal person, entity or body incorporated or constituted under the law of Russia or any other third country and operating in the energy sector in Russia. It does not prohibit drawdowns or disbursements made under pre-existing loans or credits in line with the agreed terms and conditions of the contract. The prohibition must not be circumvented through changes to the existing terms and conditions.

4. **What is considered as "new loan or credit"? What kind of amendments, waivers would re-qualify an existing loan as a new loan or credit?**
   Last update: 22 April 2022

Such amendments should not result for instance in extending the dates for loan repayment, or

lowering the capital to be repaid, or the interest rates applicable in case of delays. It should not, in any other way, result in a financial benefit for the entity.

5. **Should the phrase "operating in the energy sector in Russia" as formulated in Article 3a(1) be understood as covering commercial activities such as holding minority shares or other property interest in a Russian company operating in the energy sector (i.e. a Russian company conducting activities listed in Article 1(u))?**
   Last update: 22 April 2022

In this example, the Russian company is be the one "operating in the energy sector". The Commission is of the view that persons or entities that own or control such a company should be considered as "operating in the energy sector" as well. However, a mere minority shareholding in the company, in the absence of determined control, does not automatically amount to "operating in the energy sector". Other elements would then need to be present, and should be assessed on a case-by-case basis. For instance, one can draw upon the distinction between Foreign Direct Investment (Article 2(1) of Regulation (EU) 2019/452), which would make an investor meet the threshold for "operating in the energy sector", and portfolio investment (generally viewed as below 10% shareholding), which in itself would not.

6. **Is it prohibited to provide financing to EU-incorporated businesses that operate in the energy sector in Russia?**
   Last update: 22 April 2022

Article 3a(1) does not prohibit financing to EU companies that operate in the energy sector in Russia. The activities of those companies could however be affected by several other provisions in **Council Regulation 833/2014** (Articles 3, 3a, 3b). In parallel, Article 2e(1) prohibits public financing for any kind of trade with or investment in Russia.

5. OIL PRICE CAP

RELATED PROVISION: ARTICLE 3n OF COUNCIL REGULATION 833/2014

Section 1: Price cap setting

1. What is the price cap?

Last update: 3 December 2022

On 2 September 2022, building on the agreement of leaders at the Elmau G7 Summit in June, the G7 Finance Ministers agreed to finalise and implement a comprehensive prohibition for services that support the maritime transportation of seaborne Russian-origin crude oil and petroleum products globally, permitting the provision of such services only if the oil and petroleum products are purchased at or below a price cap to be established by an implementing coalition of countries, composed of G7 members and other participating countries ('Price Cap Coalition').

On 6 October 2022, in addition to the already existing prohibitions related to the provision of services for the maritime transport of Russian seaborne crude oil and petroleum products to third countries, the EU decided to further prohibit the maritime transport of such goods to third countries, which only becomes applicable if and when the Council adopts the necessary measures making the price cap applicable.

At the same time, the EU introduced an exemption from the prohibition to provide maritime transport and the prohibition of services for the maritime transport to third countries of Russian seaborne oil and petroleum products when such goods are purchased at or below the price cap ('**price cap**' or '**price cap exemption**'). This exemption is conditional upon the Council introducing the price cap into Annex XI to Decision 2014/512/CFSP.

Accordingly, the price cap establishes a framework for Russian seaborne crude oil and petroleum products to be exported to third countries under a capped price to achieve three objectives: (i) maintain a reliable supply of seaborne Russian crude oil and petroleum products to the global market; (ii) reduce upward pressure on energy prices; and (iii) reduce Russia's revenues and curtail its ability to wage a war of aggression against Ukraine, this war being the fundamental cause of the inflated global energy prices.

The price cap allows the trading, brokering, transport and other related services by EU operators to support critical energy supply to third countries.

2. How is the price cap set? How can operators know at which rate the price cap is fixed? Can the price cap be reviewed?

Last update: 3 December 2022

The price cap rate is set by a Price Setting Body of the Price Cap Coalition. This Price Cap Coalition conducts a technical exercise and reaches consensus on the appropriate level at which to fix the price cap rate. This rate is a price per barrel.

After an initial price cap has been set, the price may be amended in the future to reflect technical changes and agreements of the Price Cap Coalition.

The price cap rate is approved by a unanimous decision of the Council. Such decision will introduce the price cap in Annex XI to Decision 2014/512/CFSP. In accordance with this Decision, the price cap is inserted into EU law by an amendment of Annex XXVIII to Regulation (EU) 833/2014 via a Commission implementing act. Any subsequent changes would require the same procedure i.e. a Council Decision and a Commission implementing act.

This information is published in the Official Journal of the EU.

3. **In what currency is the price cap set? Which conversion rate should be used if the oil was purchased in another currency**?
   Last update: 3 December 2022

Oil purchases from Russia may occur in U.S. dollars (USD) or in other currencies.

The price cap rate is specified in Annex XXVIII to Regulation (EU) No 833/2014 in USD only.

The reference price per barrel should be the one set in the purchase contract and effectively paid. If it is denominated in any currency other than the US dollar, for the purpose of conversion and application of the price cap, the exchange rate to apply shall be the average, over the thirty calendar days prior to the date the price is agreed upon, of the relevant daily exchange rate published by the U.S. Federal Reserve H.10. The daily exchange rates are available at the following website: https://www.federalreserve.gov/releases/h10/default.htm. The average shall be calculated as a simple average, i.e. as the ratio of the sum of the published exchange rates and the number of actual observations over the thirty calendar days prior to the date the price is agreed upon.

If the relevant exchange rate is not available from the above mentioned source of the U.S. Federal Reserve, the relevant exchange rate between the USD and the currency of purchase shall be calculated as the average over the prior thirty calendar days of the triangular conversion of the daily exchange rate between the EUR and the USD and of the daily exchange rate between the EUR and the currency of purchase, as published by the European Central Bank (ECB) at the following website: https://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/index.en.html).

If the relevant exchange rate between the EUR and the currency of purchase is not available from the ECB, the average exchange rate between the USD and the currency of purchase over the prior thirty calendar days shall be calculated as the average over the prior thirty days of the triangular conversion of the daily exchange rate between the Special Drawing Rights (SDR) and

the USD and of the exchange rate between the SDR and the currency of purchase published by the International Monetary Fund and available at the following website: https://www.imf.org/external/np/fin/data/param_rms_mth.aspx. For example, in the case the currency of purchase is the Russian ruble (RUB), the conversion rate shall be calculated as the ratio of SDR/RUB and SDR/USD.

If the relevant exchange rate is not available from any of the sources indicated above, another standard source of exchange rate data may be used (e.g. data reporting services providers).

While many contracts currently rely on the average oil price over a period of time, existing contracts may need to be renegotiated to reflect a fixed price cap rate. These changes may be necessary so that buyers can ensure they are purchasing at or below the cap when they calculate the price based on the relevant exchange rate.

National competent authorities will ascertain that EU operators have taken all the necessary steps, in good faith, to ensure oil is purchased at or below the price cap.

3a. How is the price cap set for petroleum products?
Last update: 4 February 2023

For petroleum products, Annex XXVIII to Regulation (EU) No 833/2014 provides for two price cap rates depending on the type of petroleum products:

(i) One rate for discount to crude oil products, primarily residual fuel oils, naphthas, and waste oils.

(ii) One rate for premium to crude oil products, which would be mainly gasoline, motor spirits, aviation spirits, motor fuel blend stocks, gasoil and diesel fuel, kerosene and kerosene-type jet fuel, and vacuum gas oil.

Annex XXVIII provides a categorisation of all the petroleum products falling under CN code 2710 in one of the two rates. For ease of reference, please find the applicable CN codes below:

CN Code	Description	Premium to crude oil/ Discount to crude oil
	Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70|% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils	
2710 12	Light oils and preparations	
2710 12 11	For undergoing a specific process	Discount to crude oil

2710 12 15	For undergoing chemical transformation by a process other than those specified in respect of subheading|2710|12|11	Discount to crude oil
	For other purposes Special spirits	
2710 12 21	White spirit	Discount to crude oil
2710 12 25	Other	Discount to crude oil
	Other Motor spirit	
2710 12 31	Aviation spirit	Premium to crude oil
	Other, with a lead content Not exceeding 0,013|g per litre	
2710 12 41	With an octane number (RON) of less than 95	Premium to crude oil
2710 12 45	With an octane number (RON) of 95|or more but less than 98	Premium to crude oil
2710 12 49	With an octane number (RON) of 98|or more	Premium to crude oil
2710 12 50	Exceeding 0,013|g per litre	Premium to crude oil
2710 12 70	Spirit type jet fuel	Premium to crude oil
2710 12 90	Other light oils	Premium to crude oil
2710 19	Other	
	Medium oils	
2710 19 11	For undergoing a specific process	Premium to crude oil
2710 19 15	For undergoing chemical transformation by a process other than those specified in respect of subheading|2710|19|11	Premium to crude oil
	For other purposes Kerosene	
2710 19 21	Jet fuel	Premium to crude oil
2710 19 25	Other	Premium to crude oil
2710 19 29	Other	Premium to crude oil
	Heavy oils Gas oils	
2710 19 31	For undergoing a specific process	Premium to crude oil
2710 19 35	For undergoing chemical transformation by a process other than those specified in respect of subheading|2710|19|31	Premium to crude oil
	For other purposes	
2710 19 43	With a sulphur content not exceeding 0,001|% by weight	Premium to crude oil
2710 19 46	With a sulphur content exceeding 0,001|% by weight but not exceeding 0,002|% by weight	Premium to crude oil
2710 19 47	With a sulphur content exceeding 0,002|% by weight but not exceeding 0,1|% by weight	Premium to crude oil
2710 19 48	With a sulphur content exceeding 0,1|%	Premium to crude oil

	by weight	
	Fuel oils	
2710 19 51	For undergoing a specific process	Discount to crude oil
2710 19 55	For undergoing chemical transformation by a process other than those specified in respect of subheading|2710|19|51	Discount to crude oil
	For other purposes	
2710 19 62	With a sulphur content not exceeding 0,1|% by weight	Discount to crude oil
2710 19 66	With a sulphur content exceeding 0,1|% by weight but not exceeding 0,5|% by weight	Discount to crude oil
2710 19 67	With a sulphur content exceeding 0,5|% by weight	Discount to crude oil
	Lubricating oils; other oils	
2710 19 71	For undergoing a specific process	Premium to crude oil
2710 19 75	For undergoing chemical transformation by a process other than those specified in respect of subheading|2710|19|71	Discount to crude oil
	For other purposes	
2710 19 81	Motor oils, compressor lube oils, turbine lube oils	Discount to crude oil
2710 19 83	Hydraulic oils	Discount to crude oil
2710 19 85	White oils, liquid paraffin	Discount to crude oil
2710 19 87	Gear oils and reductor oils	Discount to crude oil
2710 19 91	Metal-working compounds, mould-release oils, anti-corrosion oils	Discount to crude oil
2710 19 93	Electrical insulating oils	Discount to crude oil
2710 19 99	Other lubricating oils and other oils	Discount to crude oil
2710 20	Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70|% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, containing biodiesel, other than waste oils	
	Gas oils	
2710 20 11	With a sulphur content not exceeding 0,001|% by weight	Premium to crude oil
2710 20 16	With a sulphur content exceeding 0,001|% by weight but not exceeding 0,1|% by weight	Premium to crude oil
2710 20 19	With a sulphur content exceeding 0,1|% by weight	Premium to crude oil
	Fuel oils	
2710 20 32	With a sulphur content not exceeding 0,5|% by weight	Discount to crude oil
2710 20 38	With a sulphur content exceeding 0,5|% by weight	Discount to crude oil

2710 20 90	Other oils	Discount to crude oil
	Waste oils	
2710 91	Containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	Discount to crude oil
2710 99	Other	Discount to crude oil

The following database can help find examples of products falling under these CN codes: ECICS Consultation (europa.eu)

4. **Does the price cap rate include transport costs?**
   Last update: 26 January 2024

Shipping, freight, customs, and insurance costs are not included in the price cap and must be invoiced separately and at commercially reasonable rates. While shipping and insurance are covered services, these costs are distinct from the price cap on Russian oil.

Some market participants may need to adjust their invoicing models to show the price of the oil until the port of loading and the price for transportation and other services separately. This could require participants, such as sellers or service providers, to put new processes in place to itemize and document these costs, as well as ensure that shipping and other service charges were not used as a means of subverting the price cap. Applicable as of 20 February 2024, it is mandatory for certain operators to provide itemised cost information upon request[29]. See FAQ 35 and following for more details.

5. **There is a prohibition to transport Russian seaborne oil and a prohibition to provide related services. How can EU operators still offer such services?**
   Last update: 3 December 2022

As stated in the FAQ 1 above, the price cap on Russian seaborne oil is an exemption from these sanctioned activities. The services in question are only allowed to transport to third countries and only if the Russian seaborne oil was purchased at or below the price cap.

6. **When does the price cap start applying? When does it stop applying?**
   Last update: 27 February 2023

The price cap will apply from the receipt of cargo on a vessel of the Russian-origin crude oil or petroleum products (loading). This means that any intermediary trade conducted while the oil is at sea must occur at or below the price cap. The same applies also in cases of oil ship-to-ship

[29] Council Regulation (EU) 2023/2878 of 18 December 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

transfers. The price cap will no longer apply after the crude oil or petroleum products have been released for free circulation in a jurisdiction outside Russia and are consigned to the landed purchaser.

If the oil or petroleum products have been customs cleared and then become seaborne again without being substantially transformed in line with non-preferential rules of origin, then the price cap will still apply.

Once Russian crude is substantially transformed (e.g. it is refined and comes under a different HS tariff heading) in a third country other than Russia, it is no longer considered to be of Russian origin, and thus the price cap no longer applies.

For the purposes of the price cap, with regards to petroleum products, the price cap no longer applies when the blending operations in a third country involving Russia origin petroleum products result in a tariff shift at 8 digit level, i.e if the blending operation results in a difference between the 8 digits code of the input Russian petroleum products(s) and the output petroleum product.

7. **How will compliance with the price cap be ascertained in practice?**
   Last update: 26 January 2024

The application of the price cap exemption relies on an attestation process that enables operators along the supply chain of seaborne Russian oil to demonstrate that it has been purchased at or below the price cap.

For Russian oil or petroleum products loaded as of 20 February 2024, it is mandatory for certain operators to provide itemised cost information upon request[30]. See FAQ 35 and following for more details.

EU operators which trade, transport or provide relevant services for the shipment of this oil can do so by securing certain documentation or attestation from their counterparties proving the Russian oil was bought at or below the relevant price, as explained further below in Section 7 'Attestations'. For Russian oil or petroleum products loaded as of 20 February 2024, attestations must also be collected per-voyage. See FAQ 35 and following for more details.

8. **What oil is covered by the price cap? Do these measures apply to non-Russian oil cargo which is mixed with Russian oil?**
   Last update: 2 August 2023

These measures apply to Russian crude oil falling under CN code 2709 00 as of 5 December 2022 and Russian petroleum products falling under CN code 2710 as of 5 February 2023. In both cases, this shall happen only after adoption of the Council Decision establishing the price cap.

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[30] Council Regulation (EU) 2023/2878 of 18 December 2023 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

Oil and petroleum products which originate in a third country and are only being loaded in, departing from or transiting through Russia, provided that both the origin and the owner of those goods are non-Russian, are exempt from the price cap.

In order to determine if the product originates in Russia, the non-preferential rules of origin of the EU apply. EU operators should exercise appropriate due diligence in assessing the origin of the oil and should rely on documentation at their disposal to determine the origin of the oil, which may include certificates of origin.

Crude oil or petroleum products of non-Russian origin that contain a *de minimis* amount of Russian oil left over from a container or tank (tank heel or an unpumpable quantity of substance which cannot be removed from a container without causing damage to the container) should not be considered Russian origin oil and thus should not be subject to the price cap

Crude oil transported in a mixed fashion

Russian oil transported together with oil of other origin in mixed fashion is subject to the price cap. This means that an attestation will need to be provided for the proportion of Russian oil (see section below on 'Attestations'). If it is not possible to determine the proportion of the Russian oil, the whole shipment is subject to the price cap and an attestation needs to be provided for the whole shipment.

For restrictions applicable to oil transported in mixed fashion see also FAQ 2 on Oil Imports.

In the case of the Caspian Pipeline Consortium pipeline which transports Kazakh oil through Russia, the mixed oil is Kazakhstan origin oil, as proven by a certificate of origin or other documentation providing evidence on the origin of the product, with some unavoidable Russian oil residue for technical reasons. The transport of this oil would not be subject to the price cap.

Petroleum products transported in a mixed fashion

Russian petroleum products transported together with petroleum products of other origin in mixed fashion are subject to the price cap. An attestation will need to be provided for the whole shipment (see section below on 'Attestations').

It should be noted that for the purposes of the price cap, if a Russian petroleum product is processed by being blended in a third country other than Russia with a product of another third country origin resulting in a different product as indicated in question 6, then the Russian petroleum product will no longer be considered of Russian origin and the price cap will no longer apply.

8a. When are petroleum products no longer considered of Russian origin?
Last update: 4 February 2023

Where these products have been substantially transformed in a third country other than Russia (see FAQ 6 and 8), they are no longer considered of Russian origin and the price cap no longer applies.

Section 2: Entry into force and wind-downs

9. Can Russian seaborne crude oil still be transported to third countries until 5 December 2022?
Last update: 3 December 2022

Yes. The transport ban for Russian seaborne oil to third countries comes into force on 5 December 2022 for crude oil and 5 February 2023 for petroleum products, unless below the price cap.

10. Can maritime related services be provided for the transport of Russian seaborne oil until 5 December 2022?
Last update: 4 February 2023

Since 3 June 2022, there is a prohibition to provide technical assistance, brokering services or financing or financial assistance for the transport to third countries of Russian seaborne oil. However, there is a wind-down period for the execution of services contracts until 5 December 2022 (for crude oil) and 5 February 2023 (for petroleum products).

At the end of these wind-downs, the prohibition to provide these services applies, subject to the 45-day wind-down period for Russian crude oil transported at sea on 5 December 2022 and a 55-day wind-down period for Russian petroleum products transported at sea on 5 February 2023 (see FAQ 12), unless the Russian seaborne oil was purchased at or below the price cap.

11. When does the price cap enter into force?
Last update: 4 February 2023

The price cap enters into force as of 5 December 2022 for crude oil and as of 5 February 2023 for petroleum products. These measures apply to Russian crude oil falling under CN code 2709 00 and Russian petroleum products falling under CN code 2710. A 45-day wind down period applies for Russian crude oil at sea on 5 December 2022 and a 55-day wind-down period for Russian petroleum products transported at sea on 5 February 2023 (see FAQ 12 below). In case of proven *force majeure* hindering the unloading of Russian crude oil or petroleum goods at the final port of destination prior to 19 January 2023 (eg, storm, port or straits blockade etc.), the wind-down period can be extended beyond the respective 45 or 55 days until the hindering exceptional circumstance has ceased to exist.

12. Russian crude oil is being transported at sea on 5 December 2022. Does it need to comply with the price cap?
Last update: 4 February 2023

No. There is a 45-day wind-down period for seaborne Russian oil purchased above the price cap, provided it is loaded onto a vessel at the port of loading prior to 5 December 2022 and unloaded at the final port of destination prior to 19 January 2023.

In case of proven *force majeure* hindering the unloading at the final port of destination prior to 19 January 2023 (e.g. storm, port or straits blockade etc.), wind-down period can be extended beyond 45 days until the hindering circumstance has ceased to exist.

12a. Russian petroleum products are being transported at sea on 5 February 2023. Do they need to comply with the price cap?
Last update: 4 February 2023

No. There is a 55-day wind-down period for seaborne Russian petroleum products purchased above the price cap, provided it is loaded onto a vessel at the port of loading prior to 5 February 2023 and unloaded at the final port of destination prior to 1 April 2023.

In case of proven *force majeure* hindering the unloading at the final port of destination prior to 1 April 2023 (eg, storm, port or straits blockade etc.), this wind-down period can be extended beyond 55 days until the hindering circumstance has ceased to exist.

13. After the initial price cap was fixed, the price cap changes in the future. Is there a wind-down period?
Last update: 3 December 2022

After an initial price cap has been set, the price may be amended by the Price Cap Coalition. When this occurs and the price in Annex XXVIII is changed, there is wind-down period of ninety (90) days for the transport and related services to the transport of Russian crude oil (and petroleum products), where the conditions of Article 3n(5) are fulfilled.

14. Do contracts referred to in Art. 3n(2)(a) concluded before 4 June 2022 concern services contracts such as an insurance contract or the Russian seaborne sale or purchase contract?
Last update: 3 December 2022

This provision refers to services contracts such as an insurance contract concluded before 4 June 2022.

14a. Can a vessel be added to an insurance open cover policy if this contract was concluded before 4 June 2022?
Last update: 4 February 2023

Yes. The new attachment of insurance to vessels pursuant to existing fleet policies amounts to the execution of the original insurance policy.

15. Does Art. 3n(3) mean that the insurance cover must cease by 5 December 2022, for it to be lawful to pay claims that have arisen between 4 June 2022 and 5 December 2022?
Last update: 3 December 2022

The prohibition to provide insurance for the transport of Russian seaborne oil applies from 5 December 2022. As of 5 December, insurance can be provided, if the Russian seaborne oil was purchased at or below the price cap.

(i) In case the insurance ceases by 5 December, claims arising between 4 June and 5 December can be lawfully paid out even after 5 December 2022.
(ii) In case the insurance continues after 5 December 2022 in compliance with the price cap, there is no limitation as to when the claims need to be lawfully paid out.

16. If the price cap is amended, on-going contracts, including insurance, at the previous price cap rate benefit from a 90 days wind-down period per Article 3n(5). Is it necessary to settle claims arising from such contracts within those 90 days?
Last update: 3 December 2022

Article 3n(5) provides that the price cap will not apply for a period of 90 days to the transport of and related services to the transport of seaborne oil originating in Russia or which has been exported from Russia, subject to specific conditions. It does not set a deadline for the settlement of claims arising during the 90-day period.

16a. When do the requirements for itemised cost information and attestations 'per-voyage' take effect?

Last update: 26 January 2024

Per Article 3n, paragraph 6a, the requirement for itemised cost information upon request applies to Russian crude oil and petroleum products loaded as of 20 February 2024.

Similarly, attestations 'per-voyage' should be collected for Russian crude oil and petroleum products loaded as of 20 February 2024.

Section 3: Interaction with other provisions

17. Does the price cap affect the import ban into the Union?
Last update: 3 December 2022

No. Article 3n and the price cap exemption concern the trade and transport of Russian crude oil and petroleum products to and between third countries only.

18. Are derogations under Article 3m affected by the price cap?

Last update: 3 December 2022

The price cap does not affect in any way the exceptions and derogations contained in Article 3m, including allowing certain Member States to continue importing crude oil and petroleum products from Russia due to their specific situation or to import seaborne crude oil from Russia if the supply of crude oil by pipeline from Russia is interrupted for reasons beyond their control.

18a. Is it prohibited for an EU vessel to bunker Russian petroleum products?
Last update: 26 February 2024

The bunkering by an EU vessel of Russian petroleum products in Russia is possible provided this purchase is required to meet the essential needs of the purchaser in Russia (Article 3m paragraph 9), meaning bunkering for the operation of the tanker pursuing the voyage.

Furthermore, if an EU person has no reason to suspect that the petroleum product that it has purchased for the bunkering of its vessel in a third country is of Russian origin, it should not be held liable if such product is of Russian origin. If, exceptionally, the EU person knew, or could not have ignored the Russian origin of such product, it would be in breach of Article 3m, paragraph 1.

18b. Can a vessel bunker Russian petroleum products in the EU?
Last update: 4 February 2023

Russian petroleum products which were imported into the EU before the 5 February 2023 can be sold, purchased and used, including for bunkering purposes. After 5 February 2023, it is prohibited to import Russian petroleum products into the EU.

This is without prejudice to the exceptions and derogations contained in Article 3m, including shipments which are imported by Bulgaria, Croatia or landlocked Member States.

18C. Can a vessel transporting Russian oil or petroleum products receive bunkering services?
Last update: 24 July 2023

The access to EU ports by tankers carrying Russian crude oil or petroleum products is prohibited by Article 3m of Regulation 833/2014, which prohibits, among others, the transfer -which includes transport- of crude oil and petroleum products originating in Russia. Consequently, access to EU ports in order to receive bunkering services, which goes beyond the mere transport of such products[31], is also prohibited.

However, consistent with the Union's commitment not to hamper the maritime transport of Russian seaborne oil purchased below the price cap for third countries (Article 3n), the access to ports for the provision of such services is possible provided that the Russian crude oil or petroleum products in question are purchased below the price cap agreed by the G7 Price Cap

[31] FAQ 1, OIL IMPORTS RELATED PROVISIONS: ARTICLE 3m AND ARTICLE 3n OF COUNCIL REGULATION 833/2014

Coalition and are destined to a third country. The competent authorities must receive the necessary documentation from the vessel demonstrating that the Russian crude oil or petroleum products were purchased below the price cap and the vessel is in full compliance with EU sanctions, in particular the attestation process.

Section 4: Scope of the measure

19. Is trading and brokering included?
Last update: 3 December 2022

The trading and brokering of Russian oil are allowed if the oil is purchased at or below the price cap.

Brokering is defined in Article 1(d) of Council Regulation (EU) 833/2014 as meaning (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country, or (ii) the selling or buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country.

Article 3n paragraph 1 prohibits the provision of brokering services related to Russian oil and its transport, including through ship-to-ship transfers, to third countries. Accordingly, this prohibition should be understood as applying widely to all related brokering services such as commodities brokering, insurance brokering, customs brokering, ship brokering.

20. What is the scope of the maritime related services ban?
Last update: 3 December 2022

Article 3n, paragraph 1, provides that it is prohibited to provide, directly or indirectly, technical assistance, brokering services or financing or financial assistance, related to the maritime transport of Russian seaborne oil.

21. Is classification included in the maritime related services ban?
Last update: 3 December 2022

No. Service providing assurance that a ship complies with legal requirements and standards established by the classification society during design and construction, and maintained during operation, is not included.

22. Does insurance brokering fall under "brokering services" in Art. 3n(1)?
Last update: 3 December 2022

Yes. According to Article 1(d), brokering services means: (i) the negotiation or arrangement of transactions for the purchase, sale or supply of goods and technology or of financial and technical services, including from a third country to any other third country, or (ii) the selling or

buying of goods and technology or of financial and technical services, including where they are located in third countries for their transfer to another third country.

23. Are flagging and registration services included in the maritime related services ban?
Last update: 4 February 2023

Yes. Flagging and registration services are prohibited for a vessel involved in the transportation of Russian oil, except if it adheres to the price cap.

24. Is the processing, clearing or sending of payments by intermediary banks included in the maritime related services ban?
Last update: 4 February 2023

The approach as clarified by the Commission's guidance previously applies: in Case C-72/15 (Rosneft), the Court of Justice clarified that the notion of 'financial assistance' in Article 4 does not include the processing of a payment, as such, by a bank or other financial institution. The term encompasses measures which require the financial institution concerned to commit its own resources. However, the Court of Justice also clarified that the processing of payments linked to the sale, supply, transfer or export of prohibited items, is prohibited. The issuance of letters of guarantees/credit involves the commitment of the issuer's own resources, and as such constitutes financial assistance and is prohibited when linked to the underlying commercial transaction subject to a ban under Article 2a.

This is without prejudice to the exceptions and derogations contained in Article 3m, including shipments which are imported by Bulgaria, Croatia or landlocked Member States.

25. Is bunkering of Russian oil included in the maritime related services ban?
Last update: 4 February 2023

No. The provision of bunkering services (supplying fuel for use by ships) to vessels transporting Russian crude or petroleum products is not included in the scope of Article 3n nor the price cap.

26. Is chartering prohibited?
Last update: 3 December 2022

Yes, it is prohibited for any EU operator to charter, including sub-charter, a vessel for the transport of Russian oil, unless it complies with the price cap.

26a. Are vessel or cargo testing, inspection and certification services included?
Last update: 4 February 2023

No. Vessel or cargo testing, inspection and certification services, are not included in the scope of the price cap.

26b. Is the provision of equipment or services used to operate ship-to-ship transfers included in the maritime related services ban?
Last update: 30 June 2023

Yes, the provision of equipment or services to assist the operations of ship-to-ship transfers fall under the scope of the prohibition to provide technical assistance to vessels that transport, including through ship-to-ship transfers, Russian crude oil or petroleum products. This covers the provision of any equipment such as tugboats, fenders and cargo hoses as well as the servicing of such equipment. Accordingly, this is prohibited unless the Russian crude oil or petroleum products complies with the price cap.

Section 5: Maritime transport

27. Which EU vessels should comply with this measure?

Last update: 3 December 2022

The prohibition to transport Russian seaborne oil applies to all EU vessels, i.e. EU flagged vessels, and also vessels that are owned, chartered and/or operated by EU companies or nationals[32]. This would also cover agents acting on their behalf.

Accordingly, these same vessels are allowed to transport Russian seaborne oil provided it is carried at or below the price cap.

28. Are ship-to-ship transfers prohibited above the price cap?

Last update: 3 December 2022

Yes, ship-to-ship transfers for the transport of prohibited Russian oil are explicitly prohibited in Article 3n(4), if purchased above the price cap. No EU operator should conduct ship-to-ship transfers for the transport of Russian oil, if purchased above the price cap. The inclusion of this explicit prohibition aims to prohibit a practice which would otherwise result in the circumvention of the general transport prohibition set out in the same paragraph.

29. What are the obligations of EU port authorities? And EU customs authorities?

Last update: 3 December 2022

The price cap only applies to the transport of Russian seaborne oil to third countries.

The import ban of Russian seaborne oil into the Union applies from 5 December 2022 for crude oil and from 5 February 2023 for petroleum products in accordance with Article 3m. Accordingly, EU port authorities and EU customs authorities should stop such shipments from entering EU territory. This is without prejudice to the exceptions and derogations contained in Article 3m, including shipments which are imported by Bulgaria, Croatia or landlocked Member States.

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[32] Article 13, paragraphs b, c and d of Council Regulation 833/2014.

Past the abovementioned deadlines, authorisations/derogations for the import into the Union of oil can no longer be granted concerning Russian seaborne oil. This is because such derogations were possible "unless prohibited under Article 3m or 3n", for instance in Articles 3ea(5)(a) or 5aa(3)(aa) of Council Regulation 833/2014.

30. Can a ship transport Russian oil if the contract relating to the transport was signed before the entry into force of the price cap measure?
Last update: 4 February 2023

The price cap enters into force on 5 December 2022 for crude oil and on 5 February 2023 for petroleum products. This means that from those dates, EU operators will not be allowed to transport Russian oil if such oil was purchased above the price cap.

However, there is a 45-day wind-down period for seaborne Russian crude oil purchased above the price cap, provided it is loaded onto a vessel at the port of loading prior to 5 December 2022 and unloaded at the final port of destination prior to 19 January 2023. There is also a 55-day wind-down period for seaborne Russian petroleum products purchased above the price cap, provided they are loaded onto a vessel at the port of loading prior to 5 February 2023 and unloaded at the final port of destination prior to 1 April 2023.

In case of proven *force majeure* hindering the unloading of Russian crude oil or petroleum goods at the final port of destination prior to 19 January 2023 (eg, storm, port or straits blockade etc.), the wind-down period can be extended beyond the respective 45 or 55 days until the hindering exceptional circumstance has ceased to exist.

If the price cap changes (after 5 December 2022 for crude and after 5 February 2023 for petroleum products), transport will still be allowed for 90 days if the contract was signed before the new price was adopted, so long as the price was in line with the price cap applicable at the time of the conclusion of the contract, as set out in Article 3n paragraph 5. If the price cap change is an increase in the price, the transport of oil within the new price cap is possible.

31. Can a vessel access EU ports if it carries oil after 5 December 2022?
Last update: 3 December 2022

No. The import ban of Russian seaborne oil into the Union applies from 5 December 2022 for crude oil and 5 February 2023 for petroleum products in accordance with Article 3m.

Past these deadlines, access to EU ports is no longer possible since authorisations/derogations for the import into the Union of Russian oil can no longer be granted concerning Russian seaborne oil. This is without prejudice to the exceptions and derogations contained in Article 3m, including shipments which are imported by Bulgaria, Croatia or landlocked Member States. This is because such derogations were possible "unless prohibited under Article 3m or 3n" in Article 3ea(5)(a) of Council Regulation 833/2014.

Section 6: Article 3n, paragraph 7

32. Can an EU operator provide services to a third country flagged vessel if it transported Russian oil above the price cap? How can an EU operator know whether a vessel has transported Russian oil above the price cap?
Last update: 3 December 2022

The prohibition to provide services related to the transport of Russian crude oil or petroleum products by a third country flagged vessel applies in relation to third country flagged vessels which in the past transported such goods purchased above the price cap, provided the operator responsible for that transport knew or had reasonable cause to suspect that this was the case.

EU operators have to perform appropriate due diligence calibrated according to the specificities of their business and the related risk exposure (eg, the tier they are in) to ensure compliance with this provision. In cases where an EU operator without direct access to price information (eg, tier 2 or 3) reasonably relies on an attestation showing the Russian good was transported at or below the price cap, after performing appropriate due diligence, and such an attestation was falsified or provided by illegitimate actors, the EU operator would not be considered in breach of this provision provided they acted in good faith. Furthermore, the operator responsible for that transport will be deemed to not know or to have had no reasonable cause to suspect that the oil was transported above the price cap based on the due diligence requirements applicable to the tier they are in.

It should be noted that, according to Article 10 of Regulation No 833/2014, actors will not face liability of any kind "if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation."

33. What are the notification obligations of Member States under this provision?
Last update: 3 December 2022

Member States and the Commission should inform each other of detected instances of breach or, circumvention of this provision. This means they should inform each other in cases when there are substantiated instances of breaches or circumvention of such measures. Mere suspicions or vague allegations without substantiation are not subject to the notification requirement.

Any information provided or received in accordance should be used for the purposes for which it was provided or received, including ensuring the effectiveness of the measure.

34. If a third country flagged vessel runs afoul of Article 3n paragraph 7, would the resulting prohibition be (1) loss of EU services for transporting Russian oil by that vessel, or (2) loss of EU services for transporting any oil by that vessel?
Last update: 3 December 2022

The resulting prohibition would entail the loss of EU services for transporting Russian oil (i.e. crude oil or petroleum products which originate in Russia or are exported from Russia) by that third country flagged vessel for a period of 90 days following the date of unloading of the cargo purchased above the price cap.

Violations of other provisions of Regulation No 833/2014 by EU vessels, such as EU flagged vessels, would be subject to consequences that follow under each Member State's national legislation, as in cases of other sanctions violations.

Section 7: Attestations, recordkeeping and itemised ancillary costs

35. How does the recordkeeping and attestation process work?

Last update: 26 January 2024

The price exception will rely on a recordkeeping and attestation process that allows each party in the supply chain of seaborne Russian oil to demonstrate or confirm that oil has been purchased at or below the price cap. This recordkeeping and attestation process is in addition to standard due diligence.

The recordkeeping and attestation process is intended to provide assurances to EU operators that followed the appropriate due diligence to reasonably rely on such attestations. In cases when an EU operator without direct access to price information reasonably relies on an attestation, after performing appropriate due diligence, and such an attestation was falsified or provided by illegitimate actors, the EU operator would not be considered in breach of the price cap provided it has acted in good faith.

Update applicable for Russian oil or petroleum products loaded as 20 February 2024

Attestations

For Russian oil or petroleum products loaded as of 20 February 2024, in order increase visibility over the Russian oil trade, certain operators are expected to demonstrate attestations '**per-voyage'**. Please see FAQ 35b for further details.

Itemised ancillary costs

For Russian oil or petroleum products loaded as of 20 February 2024, to further support the implementation of, and compliance with, the price cap mechanism while increasing barriers to falsification of attestations and inflated transport costs, a new requirement is introduced stipulating that itemised price information for ancillary costs, such as insurance and freight, must be shared upon request throughout the supply chain of Russian oil trade.

The itemised price information is to be shared by actors with access to that information, such as traders and charterers in Tier 1 or Tier 2. Actors down the supply chain, such as shipowners and insurers in Tier 3, should collect and share the itemised cost information from actors closer to the origin of such information, when requested. Competent authorities of Member States can request that information from any actor, regardless of their place in the supply chain, at any time, in order to verify compliance with the price cap mechanism.

See more details on what itemised ancillary costs consist of in FAQ 35c, as well as a 'Itemised cost information' at the end of the FAQs.

Tier	Description	Non-exhaustive list of actors	Attestations	Itemised ancillary costs
Tier 1	Actors who have direct access to price information in the ordinary course of business.	Commodities brokers, commodities traders, and other persons acting in their capacity as seller or buyer of Russian oil.	Tier 1 actors should retain and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap. Such documentation may include invoices, contracts, or receipts/proof of payment. As of 20 February 2024, such information should be retained and shared per-voyage and passed on to any other Tier 1, Tier 2 or Tier 3A counterparty.	As of 20 February 2024, Tier 1 actors should also retain and share itemised ancillary costs and pass it on to operators in the supply chain upon request, within 30 days of such a request being made.
Tier 2	Actors who are sometimes able to request and receive price information from their customers in the ordinary course of business.	Custom brokers, ship/vessel agents	When practicable, Tier 2 actors request, retain, and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap. When not practicable to request and receive such information, Tier 2 actors should obtain and retain customer attestations in which the customer commits to not purchase	Tier 2 actors should require its counterparties to share additional information on itemised ancillary costs upon request and pass it on to operators in the supply chain. In case Tier 2 operators have direct access to itemised price information related to the transport of Russian crude oil or petroleum products, they should provide it upon request to their counterparties within 30 days of such a request

			seaborne Russian oil above the price cap. As of 20 February 2024, such attestations should be per-voyage and should be obtained within 30 days of a counterparty's lifting or loading of Russian oil or Russian petroleum products (e.g., calling at a port in Russia or performing a ship-to-ship transfer to load Russian oil or Russian petroleum products).	being made. Such requirement could be embedded in clauses in relevant contracts, for example incorporating an 'access to records' clause (or an alternative mechanism, if appropriate), which would be activated if the actor needed to seek information about a particular voyage as part of their own due diligence processes, when requested by another contractual counterparty in the supply chain, or directly requested by the competent authority.
		Financial institutions providing transaction-based financing, financial institutions providing general financing	When practicable, financial institutions request, retain, and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap. When not practicable to request and receive such information, financial institutions should obtain and retain customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap. Requirements applicable	Requirements applicable as of 20 February 2024 on itemised costs upon request apply only to financial institutions providing transaction-based financing.

			as of 20 February 2024 on per-voyage attestations apply only to financial institutions providing transaction-based financing.	
Tier 3A	Actors who do not have direct access to price information in the ordinary course of business.	Insurers, insurance brokers, including P&I clubs, shipowners, ship management companies, flagging registries	Tier 3A actors should obtain and retain customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap. As of 20 February 2024, such attestations should be collected per-voyage. Attestations must be obtained within 30 days of each lifting or loading of Russian oil or Russian petroleum products (e.g., calling at a port in Russia or performing a ship-to-ship transfer to load Russian oil or Russian petroleum products). Such requirement could be embedded in clauses in relevant contracts, or introduced by way of a circular. Other means may be used to inform the entity's members or customers of the requirement.	With the exception of flagging registries, as of 20 February 2024, Tier 3A actors should require their counterparties to share additional information on itemised ancillary costs upon request. Such requirement could be embedded in clauses in relevant contracts, for example incorporating an 'access to records' clause (or an alternative mechanism, if appropriate), which would be activated if the actor needed to seek information about a particular voyage as part of their own due diligence processes, when requested by another contractual counterparty in the supply chain, or directly requested by a competent authority. Itemised ancillary costs information should be passed on to Tier 3A actors upon request within 30 days of such a request being made.

Tier 3B	Actors who do not have direct access to price information in the ordinary course of business.	Re-insurers, re-insurance brokers	These actors should obtain and retain customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap. This can be done through a sanctions exclusion clause or through the use of a price cap attestation. New requirements applicable as of 20 February 2024 on per-voyage attestations do not apply to Tier 3B actors.	Requirements applicable as of 20 February 2024 on itemised costs upon request do not apply to Tier 3B actors.

35a. How should operator comply with the attestation process when dealing with petroleum products?
Last update: 4 February 2023

The recordkeeping and attestation process is the same as for crude oil. Accordingly, EU operators should collect attestations for petroleum products, in line with FAQ 8 and 21.

For purposes of assessing whether petroleum products are of Russian origin, EU persons may reasonably rely upon a certificate of origin or any documentation providing evidence on the origin of the product or its processing but should exercise caution if they have reason to believe such certificate or document has been falsified or is otherwise erroneous.

In cases when an EU operator without direct access to price information reasonably relies on an attestation, after performing appropriate due diligence, and such an attestation was falsified or provided by illegitimate actors, the EU operator would not be considered in breach of the price cap provided it acted in good faith.

35b. What does a 'per-voyage' attestation mean? When does it need to be provided?
Last update: 26 January 2024

The price cap applies from the receipt of cargo on a vessel of the Russian-origin crude oil or petroleum products (loading), as stated in FAQ 6.

As of 20 February 2024, attestations should be obtained within 30 days of each lifting or loading of Russian oil or Russian petroleum products (e.g., calling at a port in Russia or performing a ship-to-ship transfer to load Russian oil or Russian petroleum products). This means that new attestations need to be provided each time a ship-to-ship transfer takes place to load Russian oil or Russian petroleum products during the transportation of cargo before it reaches its destination.

Tier 1 or Tier 2 entities involved in the onward shipment need to produce a new attestation and share it with the operators down the supply chain. Please see FAQ 35 for more details for specific actors.

35c. Which costs should be included in the cost-itemisation requirement?
Last update: 26 January 2024

Itemised ancillary costs may vary across other trade contracts and terms, but should include at least those negotiated at the start of the trade transaction.

For the most common Cost, Insurance, and Freight (CIF) and Free on Board (FOB) contracts, the following costs should be included:

For CIF contracts:

- Costs: export licences, inspection of products, fees for shipping and loading the goods at the seller's port, packaging costs, fees for customs clearance, duty and taxes, compensation for any damage or destruction of the goods, port dues at the point of loading/export and port service charges at the point of loading/export.
- Insurance: cost of insuring the shipment up until the buyer's goods have been delivered at the port of destination.
- Freight: cost of shipping the freight via sea or waterway from the seller's port to the buyer's port of destination.
- Other costs: any other costs that demonstrate compliance and provide assurance that the transaction is being conducted legally, including costs related to the provision auxiliary services for ship-to-ship transfers.

For FOB contracts:

- Costs: costs of packaging the exported items, any charges for loading the product onto transport and delivering the goods to the seller's port, export taxes, customs duty and costs, and any transfer, handling and loading charges associated with loading the product onto the vessel.

36. What are the obligations for traders, commodities brokers and refiners? What documentary evidence do they need?
Last update: 26 January 2024

Traders, commodities brokers and refiners are Tier 1 actors. EU operators who have direct access to price information in the ordinary course of business, such as commodities brokers and refiners should retain and share, as needed, documents that show that seaborne Russian oil was purchased

at or below the price cap. Such documentation may include invoices, contracts, or receipts/proof of accounts payable.

Refiners or other purchasers in third countries that have not prohibited the import of crude oil or petroleum products of Russian origin should be prepared to provide documentation showing that the oil was purchased at or below the price cap to EU maritime service providers in order to receive these services.

Where a Tier 1 actor purchases Russian oil by contracting a "Cost, Insurance, Freight" agreement, it should require a breakdown of the costs in order to identify the different expenses. It should also keep record of the charterparty agreement.

As of 20 February 2024, Tier 1 actors and those Tier 2 actors with access should facilitate the collection of attestations per-voyage. Tier 1 actors should also provide itemised ancillary costs upon request and pass it on to operators in the supply chain (Tier 2 and 3A). Such costs information should be passed on to or between Tier 2 or Tier 3A actors upon request within 30 days of such a request being made.

37. What are the obligations for financial institutions? What documentary evidence do they need?
Last update: 26 January 2024

Financial institutions are Tier 2 actors. EU operators who are sometimes able to request and receive price information from their customers in the ordinary course of business, such as financial institutions should, when practicable, request, retain, and share, as needed, documents that show that seaborne Russian oil was purchased at or below the price cap.

When not practicable to request and receive such information, they should request customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap. The documentary evidence is thus invoices, contracts, receipts/ proof of accounts payable or a price cap attestation.

Requirements applicable as of 20 February 2024 on per-voyage attestations and itemised costs upon request apply only to financial institutions providing transaction-based financing.

This is without prejudice to the exceptions and derogations contained in Article 3m, including shipments which are imported by Bulgaria, Croatia or landlocked Member States.

38. What are the obligations of shipowners to ensure that the oil was carried in accordance with the price cap?
Last update:26 January 2024

Shipowners are Tier 3A actors. Accordingly, they do not have direct access to price information in the ordinary course of business.

Shipowners should obtain from their customer an attestation in which the customer confirms the Russian oil cargo transported or to be transported has been purchased at or below the price cap. This can be a separate document or even annexed to the charterparty or bill of lading.

Shipowners may also adjust the sanctions clauses to warrant that no trade will be carried out above the price cap and ensure that this obligation is applied effectively throughout the charterparty chain. In this case, charterparties signed prior to the entry into force of the price cap should be updated. For this purpose, Council Regulation 833/2014, as amended in view of implementing the price cap, can be invoked as "unforeseen change of circumstances".

For Russian oil or petroleum products loaded as of 20 February 2024, shipowners should collect attestations per-voyage within 30 days of each loading or lifting of Russian oil or petroleum products. Furthermore, shipowners should require counterparties (Tier 1 or Tier 2, as the case may be), to share additional information on itemised ancillary costs upon request. Such requirement could be embedded in clauses in relevant contracts, for example incorporating an 'access to records' clause (or an alternative mechanism, if appropriate), which would be activated if the actor needed to seek information about a particular voyage as part of its own due diligence processes, when requested by another contractual counterparty in the supply chain, or directly requested by a competent authority. Ancillary costs information should be passed on Tier 3A actors upon request within 30 days of such a request being made.

Shipowners are required to do the necessary due diligence such that it would be reasonable to rely on the attestation they have been provided by their customer. This attestation can be shared with the shipowner's other counterparties, such as insurers.

Shipowners should keep records of this attestation for at least five (5) years so that they may demonstrate their compliance if it is later ascertained that the oil onboard was traded above the price cap.

39. Will shipowners be considered to run afoul of the price cap if cargo is traded above the price cap during the voyage?
Last update: 26 January 2024

No. Shipowners are not required to obtain further attestation from subsequent buyers of the cargo during the transit. However, they need to obtain a new attestation when a ship-to-ship transfer takes place to load Russian oil or Russian petroleum products during the transportation of cargo. They also need to ensure the possibility to request information on itemised ancillary costs from Tier 1 or Tier 2, as the case may be.

40. What are the obligations for insurers and protection and indemnity (P&I) clubs?
Last update: 26 January 2024

Insurers are Tier 3A actors. Accordingly, they do not regularly have direct access to price information in the ordinary course of business.

Insurers should obtain and retain customer attestations in which the customer commits to not purchase seaborne Russian oil above the price cap.

They may request attestations from customers that cover the entire period a policy is in place, for example for the entire length of an annual policy, rather than request separate attestations for each shipment. The documentary evidence is thus attestations tied to an annual policy. Insurers may also adjust the sanctions clauses in their policies during their renewal or by updates to current insurance policy to warrant that no trade will be carried out above the price cap.

As of 20 February 2024, insurers, insurance brokers, and P&I clubs should collect attestations per-voyage. Attestations must be obtained within 30 days of each lifting or loading of Russian oil or Russian petroleum products. Such requirement could be embedded in clauses in relevant contracts or introduced by way of a circular or other means of publishing the requirement to the to the entity's members or customers.

As of 20 February 2024, insurers, insurance brokers and P&I clubs should require their counterparties to share additional information on itemised ancillary costs upon request. Such requirement could be embedded in clauses in relevant contracts, for example incorporating an 'access to records' clause (or an alternative mechanism, if appropriate), which would be activated if the actor needed to seek information about a particular voyage as part of its own due diligence processes, when requested by another contractual counterparty in the supply chain, or directly requested by a competent authority. Ancillary costs information should be passed on upon request within 30 days of such a request being made.

41. In the documentary evidence/attestations, does the exact purchase price need to be disclosed?
Last update: 3 December 2022

The documentation held by Tier 1 Actors should contain price information, and where applicable by Tier 2 Actors. This is not the case for Tier 3 Actors.

42. At what point in time should the operators collect the attestation?
Last update: 26 January 2024

EU operators should hold the necessary attestations at the moment they conclude their contracts in relation to the transport of Russian oil to third countries i.e. for banks, at the moment the loan is signed, for insurers at the moment the insurance contract is concluded etc.

As of 20 February 2024, Tier 1 actors should adapt their commercial practices, including to allow Tier 2 and Tier 3A actors to collect attestations in a timely manner and per-voyage. See more details in FAQ 35 and following.

43. How long should an operator keep the documentary evidence?
Last update: 3 December 2022

EU operators are expected to retain relevant records for a minimum of five (5) years from the date of transport.

44. Are EU operators subject to reporting obligations?
Last update: 3 December 2022

No, EU legislation does not require operators to report. However, operators should retain the necessary attestation(s) as explained above so that compliance can be verified by national competent authorities during controls or investigations.

Section 8: Enforcement

45. How will the price cap be enforced?
Last update: 3 December 2022

Enforcing sanctions provisions is first and foremost a matter for the national enforcement authorities.

Please also refer to FAQ 35.

For specific enforcement questions, EU operators should contact the relevant national competent authority. You can find a list of the national competent authorities for each EU Member State here: https://www.sanctionsmap.eu/#/main/authorities

46. How will circumvention of the price cap be assessed?
Last update: 3 December 2022

It falls within the competencies of the national competent authority of the EU Member State in question to decide on possible cases of circumventions within their jurisdiction. Article 12 of Council Regulation (EU) No 833/2014 provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

When establishing circumvention, national competent authorities should take into account if the EU operator took the appropriate steps to ensure compliance with the price cap, in line with the guidance provided in questions above, in view of the different obligations falling upon different operators and the fact that not every service provider may have access to all information about a transaction involving seaborne Russian oil.

Any tips or information regarding possible circumvention should be actively reported to national competent authorities. In line with this national enforcement competence, the Commission will liaise with the national competent authorities of the Member States if it receives information regarding possible circumvention. Finally, the Commission has recently launched an EU whistle-

blower tool enabling the anonymous reporting of possible sanctions violations, including circumvention[33].

47. What are some possible red flags for price cap circumvention?
Last update: 26 January 2024

Oil price cap maritime advisory was published on 12 October 2023 for red flags and recommendations concerning specific best practices in the maritime oil industry[34]. EU operators have to perform appropriate due diligence calibrated according to the specificities of their business and the related risk exposure.

There is no one-size-fits-all model of due diligence. It may depend – and be calibrated accordingly – on the business specificities and the related risk exposure. It is for each operator to develop, implement, and routinely update an EU sanctions compliance programme that reflects their individual business models, geographic and sectoral areas of operations and related risk assessment. Such sanctions compliance programmes can assist in detecting red flag transactions that can be indicative of a circumvention pattern. Other best practices include establishing automatic identification system (AIS) best practices and contractual requirements, monitoring ships throughout their entire transactions lifecycle, adopting Know Your Customer (KYC) and counterparty practices, exercising supply chain due diligence, incorporating best practices into contractual language and information sharing within the industry.

The Commission expects equally to be working with the other members of the Price Cap Coalition to share information with regard to the potential breaches of the prohibitions related to the maritime services ban and maritime transport ban, or any other information relevant to circumvention or other similar practices.

48. What if the relevant counterparty does not provide the itemised costs per request?
Last update: 26 January 2024

In case the actor holding the price information refuses to provide information when requested, it should be regarded as a red flag for sanctions evasion and the service operator down the supply chain must no longer engage in business with this actor.

This refusal should also be shared with the operator's competent authority.

A service provider will not be held liable for the lack of cooperation from its counterparties to share itemised cost information upon request. The objective of the itemised costs requirement is not to pursue those supply chain participants who had sought out the information in good faith

[33] https://eusanctions.integrityline.com/frontpage

[34] https://finance.ec.europa.eu/publications/price-cap-coalition-advisory-maritime-oil-industry-and-related-sectors_en

and set up the necessary safeguards, but are obstructed by a lack of willingness from further up the supply chain.

The Council can impose asset freezes and travel bans against third country individuals or entities for circumvention or other forms of frustration of EU sanctions. Depending on the specifics of the case, this may also apply to actors withholding pricing information in order to circumvent the price cap provisions.

In case an EU service provider withholds such information or does not ask for such information knowingly and intentionally as part of a circumvention scheme, it can face enforcement action from the competent authorities and be subject to penalties.

Section 9: Exempted projects

49. What projects are exempted from the maritime services and transportation ban?

Last update: 26 January 2024

Specific projects which are essential for the energy security of certain third countries may be exempted from the price cap. The current list of exempted projects referred to in Article 3n(6)(c) are contained in Annex XXIX. It includes:

The transport by vessel to Japan, the technical assistance, brokering services, financing or financial assistance related to such transport, of crude oil falling under CN 2709 00 commingled with condensate, originating in the Sakhalin-2 (Сахалин-2) Project, located in Russia. This exemption applies on 5 December 2022 and expires 24 June 2024.

50. May other projects be exempted from the maritime services and transportation ban in the future?

Last update: 3 December 2022

Where certain objective criteria are fulfilled, the G7 and coalition members may agree to exempt other energy projects from the maritime services and transportation ban. Exempting additional projects within the EU sanctions regime requires unanimous agreement from the Council on a Council Decision, before the Commission may use its implementing powers to amend Annex XXIX accordingly.

Attestation Model

EU service providers are not required to use a particular form of attestation, the below attestation model is non-binding. For certain service providers, such as re-insurers, an attestation may take the form of a sanction exclusion clause within an annual policy, or a clause stating a party will not have cover if they transport oil purchased above the price cap.

［Date, Month, Year］

[Party to the contract/service] confirms that for [the service being provided], [party to the contract/service] is in compliance with the Russian price cap framework and any other restrictions on seaborne Russian oil and/or petroleum products applicable to [party to the contract/service]. [Party to the contract/service] attests that:

•[party to the contract/service] has received and retained price information demonstrating that the seaborne Russian oil or petroleum products is/was purchased at or below the cap; or

• where not practicable to request and receive such information, [party to the contract/service] has obtained an attestation that the purchase of seaborne Russian oil or petroleum products is/was purchased at or below the cap; or

• [party to the contract/service] has received a signed attestation that the purchase of seaborne Russian oil or petroleum products fall under a derogation.

[Signature of the Customer]

Itemised cost information

EU service providers are not required to use a particular form of itemised cost information, the below model is non-binding.

[Party to the contract/service] confirms that the following costs are/were involved in this transaction:

Type	Cost
Price per barrel or confirmation that price was at or below the relevant price cap	
Costs • Export licence fees • Inspection costs • Port fees for shipping and loading • Port service charges • Customs fees, duties, and taxes • Other, including costs related to the provision of auxiliary services for ship-to-ship transfers	
Insurance	
Freight	
[Optional] Other costs, please specify	

F. AGRICULTURAL PRODUCTS

1. TRADE IN AGRICULTURAL AND RELATED PRODUCTS FROM RUSSIA (EN & FR VERSIONS)

RELATED PROVISION: COUNCIL REGULATION 833/2014

1. Do EU sanctions prohibit the import or transit of agricultural products from Russia into/through the Union?
Last update: 22 June 2022

No. EU sanctions do not restrict the purchase, import or transport into the Union of agricultural products from Russia (e.g. Cereals, oils, oilseeds and flours of Combined Nomenclature's (CN) Chapters 10, 11; 12 and 15; dairy products of CN Chapter 4; meats of CN Chapter 2; Fruits and vegetables of Chapters 7, 8 and 20).

Transit via and re-export from the Union of those products to non-EU countries is not prohibited. In the unlikely case that those products are supplied to companies or persons listed under any EU sanctions regime, exceptions may apply, in particular for humanitarian purposes. In case of doubt, EU companies and non EU-companies operating in the Union should reach out to the relevant Member State national competent authority (NCA). Regarding the involvement of listed persons or restrictions on transactions with certain Russian companies, see Question 4. Russia has however imposed restrictions on the export of a number of agricultural products such as cereals or sunflower & rapeseed products (including oil).

Some ancillary services for importing agricultural foods are subject to restrictions; see Answer 3 below.

2. Can EU companies make payment for the purchase of agricultural products on Russian banks?
Last update: 22 June 2022

Some Russian banks are listed under Council Regulation (EU) 269/2014 and cannot be used for those payments. However, exceptions may apply; see FAQs on Assets freeze and prohibition to provide funds or economic resources.

Some Russian banks can also be subject to a comprehensive transaction ban because they fall under the scope of application of Article 5aa(1) of Council Regulation (EU) 833/2014. EU businesses and non-EU business operating in the EU can nevertheless make and receive payments for trade in agricultural products via other Russian banks, which are not listed or caught by the restriction under Article 5aa. For further clarification in this respect, operators can seek assistance from the Member State national competent authority.

Last, only a specific number of Russian banks have been de-SWIFTED. EU businesses and non-EU business operating in the Union can make and receive payments for trade in agricultural products via other Russian banks. Those payments would also most likely benefit from the exemption under Article 5b(4) of Council Regulation (EU) 833/2014 concerning restrictions on deposits exceeding 100 000 Euro per credit institution, subject to assessment of the Member State national competent authority.

3. Can EU companies procure logistic services from Russian companies when importing agricultural goods from those countries via sea, land, in-land waterways or air?
Last update: 22 June 2022

Council Regulation 833/2014 envisage a number of restrictions that EU companies and non EU-companies operating in the Union should be aware of when importing agricultural products into the Union or making them transit through it. However, for those restrictions there are exceptions that may apply. This includes the following:

- Derogation for access to EU ports: the provision prohibiting access to EU ports of any vessel registered under the flag of Russia allows national competent authorities to authorise such access, if necessary for the purchase, import or transport of agricultural and food products, including wheat and also fertilisers whose import, purchase and transport is allowed (Article 3ea of Council Regulation (EU) 833/2014).
- Derogation for road transport: the provision prohibiting any road transport undertaking established in Russia from transporting goods by road within EU territory allows the national competent authorities to authorise such transport if it is necessary for the purchase, import or transport of agricultural and food products, including wheat and also fertilisers whose import, purchase and transport is allowed (Article 3l of Council Regulation (EU) 833/2014).

Authorisation must be requested to the relevant Member State national competent authorities.

Moreover, Council Regulation (EU) 833/2014 includes a number of exceptions from restricted activities for actions that are carried out for humanitarian purposes (e.g. derogation to allow overflight of Member State airspace by Russian carriers if that is necessary for humanitarian purposes as per Article 3(d)(3) of Council regulation 833/2014). See also FAQ on the provision of humanitarian aid.

Regarding the involvement of listed persons or restrictions on transactions with certain Russian companies, see Questions 4.

4. **Are there listed Russian companies or persons that might be involved in the trade of agricultural products?**
   Last update: 22 June 2022

EU sanctions under Council Regulation (EU) 269/2014 target those responsible for the brutal aggression of Russia against Ukraine. The involvement of the majority of them in the agricultural sector is highly unlikely. EU companies should nonetheless apply the usual due diligence, in particular in relation to the listing of some persons owning or controlling companies in the Russian fertiliser sector. See FAQs on Assets freeze and prohibition to provide funds or economic resources and FAQ on Circumvention and due diligence.

5. **Can EU companies import or export phytosanitary products (e.g. fungicides, herbicides), or fertilisers to Russia?**
   Last update: 22 June 2022

Yes. There are no restrictions in place on exports from the Union to Russia on those products. EU companies can export plant protection products, herbicides or fertilisers to the Russia (e.g. CN codes e.g. CN codes: HS38089910 for pesticides and 38089323 herbicides). Regarding the involvement of listed persons or restrictions on transactions with certain Russian companies, see questions 4.

As regards imports of fertilisers, a specific treatment applies only to potash fertilisers and fertilisers containing potash: restrictions apply to new contracts, but not to existing ones, until 10 July 2022, and from that date onwards imports would be subject to a quota limit corresponding to the volume of annual imports from Russia, in order to avoid circumvention of the bans applicable for imports from Belarus.

EU companies should not be confused by certain caps and restriction on import of certain chemicals from Russia used as compounds for phytosanitary products; those restrictions prohibit the purchase and import of them from Russia into the Union and not the sale and export to Russia of those chemicals from the Union. Import of phytosanitary products in the form of final products is also not restricted.

Contrary to the EU, Russia has itself imposed restrictions on the export of fertilisers.

6. **Can EU companies provide financing and financial assistance to Russia to support the agricultural sector in those areas?**
   Last update: 22 June 2022

Yes, Council Regulation 833/2014 envisage an exemption for public financial support for trade in this respect. The prohibition to provide public financing or financial assistance for trade with, or investment in Russia explicitly exempts public financing or financial assistance for trade in food and for agricultural, medical or humanitarian purposes (Article 2e of Council Regulation 833/2014).

Regarding the involvement of listed persons or restrictions on transactions with certain Russian companies. See question 4.

7. **Are non-EU companies required to comply with EU sanctions when they import agricultural products from Russia? Does it make any difference if those goods transit through the EU territories or the Euro is used as a currency for the transaction?**
   Last update: 22 June 2022

EU sanctions are never extraterritorial and do not apply to non-EU companies or individuals that do business entirely outside the Union. By way of example, a non-EU company shipping agricultural products from Russia directly to a non-EU countries has no obligations vis-à-vis EU sanctions. However, if the same company imports the products via the Union or carries out payments in the Union, then it has to comply with EU sanctions as it is entering the EU internal market. Every sanctions Regulation includes a 'jurisdiction provision' which clarifies who has to comply with EU sanctions (e.g. Article 13 of Council Regulation (EU) No 833/2014).

COMMERCE DES PRODUITS AGRICOLES ET DES PRODUITS CONNEXES EN PROVENANCE DE RUSSIE

1. **Les sanctions de l'Union prévoient-elle une interdiction de l'importation dans l'Union ou du transit par son territoire de produits agricoles en provenance de Russie?**
   Dernière mise à jour : 11 juillet 2022

Non. Les sanctions de l'Union ne restreignent pas l'achat, l'importation ou le transport dans l'Union de produits agricoles en provenance de Russie (par exemple, les céréales, huiles, oléagineux et farines figurant aux chapitres 10, 11, 12 et 15 de la nomenclature combinée, les produits laitiers figurant au chapitre 4 de cette même nomenclature, les viandes répertoriées au chapitre 2 et les fruits et légumes énumérés aux chapitres 7, 8 et 20).

Le transit de ces produits par le territoire de l'Union et leur exportation à partir de celui-ci vers des pays tiers ne sont pas interdits. Dans le cas peu probable où ces produits seraient fournis à des entreprises ou à des personnes visées par un régime de sanctions de l'Union, des exceptions sont prévues, en particulier à des fins humanitaires. En cas de doute, les entreprises de l'Union et celles de pays tiers qui exercent des activités dans l'Union doivent s'adresser à l'autorité nationale compétente de l'État membre concerné. En ce qui concerne la participation de personnes sanctionnées ou les restrictions des transactions avec certaines entreprises russes, voir la question 4. La Russie a toutefois imposé des restrictions à l'exportation d'un certain nombre de produits agricoles tels que les céréales ou les produits à base de tournesol et de colza (y compris les huiles).

Certains services auxiliaires à l'importation de produits agricoles sont soumis à des restrictions (voir la réponse 3 ci-dessous).

2. **Les entreprises de l'Union peuvent-elles payer leurs achats de produits agricoles dans des banques russes?**
Dernière mise à jour : 11 juillet 2022

Certaines banques russes sont visées par le règlement (UE) nº 269/2014 du Conseil et ne peuvent pas être utilisées pour effectuer de tels paiements. Toutefois, des exceptions sont prévues (voir la FAQ sur le gel des avoirs et l'interdiction de mettre à disposition des fonds ou des ressources économiques).

Certaines banques russes peuvent également faire l'objet d'une interdiction totale des transactions parce qu'elles relèvent du champ d'application de l'article 5 *bis bis*, paragraphe 1, du règlement (UE) nº 833/2014 du Conseil. Les entreprises de l'Union et celles de pays tiers exerçant des activités dans l'Union peuvent néanmoins effectuer et recevoir des paiements relatifs au commerce de produits agricoles par l'intermédiaire d'autres banques russes, qui ne figurent pas sur la liste des entités sanctionnées ou auxquelles ne s'applique pas la restriction prévue à l'article 5 *bis bis*. Pour plus de précisions à cet égard, les opérateurs peuvent demander l'assistance de l'autorité nationale compétente de l'État membre concerné.

Enfin, seul un certain nombre de banques russes ont été retirées du réseau SWIFT. Les entreprises de l'Union et celles de pays tiers exerçant des activités dans l'Union peuvent effectuer et recevoir des paiements relatifs au commerce de produits agricoles par l'intermédiaire d'autres banques russes. De tels paiements bénéficieraient aussi très probablement de l'exemption prévue à l'article 5 *ter*, paragraphe 4, du règlement (UE) nº 833/2014 du Conseil concernant les restrictions applicables aux dépôts supérieurs à 100 000 euros par établissement de crédit, sous réserve de l'évaluation de l'autorité nationale compétente de l'État membre concerné.

3. **Les entreprises de l'Union peuvent-elles se procurer des services logistiques auprès d'entreprises russes lorsqu'elles importent des produits agricoles en provenance de ce pays par voie maritime, terrestre, fluviale ou aérienne?**
Dernière mise à jour : 11 juillet 2022

Le règlement (UE) nº 833/2014 du Conseil prévoit un certain nombre de restrictions dont les entreprises de l'Union et celles de pays tiers exerçant des activités dans l'Union devraient avoir connaissance lorsqu'elles importent des produits agricoles dans l'Union ou que ceux-ci transitent par le territoire de l'Union. Toutefois, des exceptions à ces restrictions sont prévues, telles que:

- une dérogation relative à l'accès aux ports de l'Union: la disposition interdisant l'accès aux ports de l'Union à tout navire battant pavillon russe permet aux autorités nationales compétentes d'autoriser cet accès s'il s'avère nécessaire à l'achat, à l'importation ou au transport de produits agricoles et alimentaires, y compris du blé et des engrais dont

l'importation, l'achat et le transport sont autorisés [article 3 *sexies bis* du règlement (UE) nº 833/2014 du Conseil];

- une dérogation relative au transport routier: la disposition interdisant à toute entreprise de transport routier établie en Russie de transporter des marchandises par la route sur le territoire de l'Union permet aux autorités nationales compétentes d'autoriser ce transport s'il s'avère nécessaire à l'achat, à l'importation ou au transport de produits agricoles et alimentaires, y compris du blé et des engrais dont l'importation, l'achat et le transport sont autorisés [article 3 *terdecies* du règlement (UE) nº 833/2014 du Conseil].

L'autorisation doit être demandée aux autorités nationales compétentes de l'État membre concerné.

En outre, le règlement (UE) nº 833/2014 du Conseil prévoit un certain nombre d'exceptions aux restrictions des activités, dans le cas d'actions menées à des fins humanitaires (par exemple, la dérogation autorisant des transporteurs russes à survoler l'espace aérien d'un État membre si ce survol est nécessaire à des fins humanitaires, telle que prévue à l'article 3 *quinquies*, paragraphe 3, dudit règlement). Voir également la FAQ sur l'aide humanitaire.

En ce qui concerne la participation de personnes sanctionnées ou les restrictions des transactions avec certaines entreprises russes, voir la question 4.

4. Existe-t-il des entreprises russes ou des ressortissants russes sanctionnés qui pourraient avoir des liens avec le commerce de produits agricoles?
Dernière mise à jour : 11 juillet 2022

Les sanctions de l'Union au titre du règlement (UE) nº 269/2014 du Conseil visent les personnes responsables de l'agression brutale menée par la Russie contre l'Ukraine. Dans leur majorité, il est très improbable qu'elles soient liées au secteur agricole. Les entreprises de l'Union devraient néanmoins appliquer le devoir de diligence habituel, notamment par rapport aux sanctions visant certaines personnes qui détiennent ou contrôlent des entreprises dans le secteur des engrais russe. Voir la FAQ sur le gel des avoirs et l'interdiction de mettre à disposition des fonds ou des ressources économiques et la FAQ sur le contournement et le devoir de diligence.

5. Les entreprises de l'Union peuvent-elles importer de Russie ou exporter vers ce pays des produits phytosanitaires (fongicides et herbicides par exemple) ou des engrais?
Dernière mise à jour : 11 juillet 2022

Oui. Il n'existe aucune restriction à l'exportation de ces produits à partir de l'Union vers la Russie. Les entreprises de l'Union peuvent exporter des produits phytopharmaceutiques, des herbicides ou des engrais vers la Russie (par exemple, les pesticides et les herbicides dont les codes de nomenclature combinée respectifs sont HS38089910 et 38089323). En ce qui concerne

la participation de personnes sanctionnées ou les restrictions des transactions avec certaines entreprises russes, voir la question 4.

En ce qui concerne les importations d'engrais, les engrais à base de potasse et ceux contenant de la potasse font l'objet d'un traitement particulier: jusqu'au 10 juillet 2022, les restrictions s'appliquent aux nouveaux contrats mais pas aux contrats existants et à partir de cette date, les importations feront l'objet d'un quota correspondant au volume des importations annuelles en provenance de Russie, afin d'éviter le contournement des interdictions applicables aux importations en provenance de Biélorussie.

Les entreprises de l'Union ne doivent pas être déroutées par les plafonds et les restrictions à l'importation de certains produits chimiques en provenance de Russie qui sont utilisés comme composés de produits phytosanitaires: ces restrictions interdisent l'achat et l'importation dans l'Union de ces produits chimiques en provenance de Russie et non leur vente et leur exportation depuis l'Union vers la Russie. L'importation de produits phytosanitaires sous forme de produits finaux n'est pas non plus limitée.

Contrairement à l'Union, la Russie a imposé d'elle-même des restrictions à l'exportation d'engrais.

6. **Les entreprises de l'Union peuvent-elles apporter des financements ou une aide financière à la Russie afin de soutenir le secteur agricole?**
   Dernière mise à jour : 11 juillet 2022

Oui, le règlement (UE) nº 833/2014 du Conseil prévoit une exemption dans le cas d'un soutien financier public aux échanges commerciaux dans le secteur agricole. L'interdiction de fournir un financement ou une aide financière publics en faveur des échanges commerciaux avec la Russie ou des investissements dans ce pays ne s'applique pas de manière explicite au financement ou à l'aide financière publics pour le commerce de denrées alimentaires et à des fins agricoles, médicales ou humanitaires (article 2 *sexies* du règlement en question).

En ce qui concerne la participation de personnes sanctionnées ou les restrictions des transactions avec certaines entreprises russes, voir la question 4.

7. **Les entreprises de pays tiers sont-elles tenues de se conformer aux sanctions de l'Union lorsqu'elles importent des produits agricoles en provenance de Russie? Le fait que ces produits transitent par le territoire de l'Union ou que l'euro soit utilisé comme monnaie pour la transaction change-t-il quelque chose?**
   Dernière mise à jour : 11 juillet 2022

Les sanctions de l'Union n'ont jamais d'effet extraterritorial et ne s'appliquent pas aux entreprises ou aux particuliers établis en dehors de l'Union qui exercent des activités entièrement hors de son territoire. À titre d'exemple, une entreprise établie dans un pays tiers qui expédie directement des produits agricoles de Russie vers un pays tiers n'a aucune obligation au titre des

sanctions de l’Union. Toutefois, si la même entreprise importe les produits en passant par le territoire de l’Union ou effectue des paiements dans l’Union, elle doit alors se conformer aux sanctions de l’Union, étant donné qu’elle entre sur le marché intérieur de l’Union. Chaque règlement concernant des sanctions comprend une «disposition relative à la compétence», qui précise qui doit se conformer aux sanctions de l’Union [par exemple, l’article 13 du règlement (UE) nº 833/2014 du Conseil].

2. TRADE IN AGRICULTURAL AND RELATED PRODUCTS FROM UKRAINE (EN & FR VERSIONS)

RELATED PROVISION: COUNCIL REGULATION 833/2014

1. **Do EU sanctions prohibit the import or transit of agricultural products from Ukraine, including non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine or Crimea/Sevastopol, into/through the Union?**
   Last update: 7 February 2023

No. EU sanctions do not restrict the purchase or import into the Union of agricultural products from Ukraine, except from non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine or from Crimea/Sevastopol ("Government controlled areas of Ukraine")). Transit via and export from the Union of those products to non-EU countries is also allowed. In the unlikely case that those products are supplied to companies or persons listed under any EU sanctions regime and exports would therefore in principle be prohibited, exceptions may apply, in particular if that is for humanitarian purposes. In case of doubt, EU companies should reach out to their Member State national competent authority. See also FAQs on Assets freeze and prohibition to provide funds or economic resources and FAQ on Circumvention and due diligence.

For imports or transit of agricultural products originating from the non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine or Crimea/Sevastopol, See Question 5 below.

2. **Can EU companies procure logistic services from companies in the Ukrainian Government controlled areas of Ukraine when importing agricultural products via sea, land, in-land waterways or air?**
   Last update: 22 June 2022

Yes. EU sanctions do not impose restrictions on procuring logistic or other ancillary services from the Ukrainian Government controlled areas of Ukraine. For instance, EU companies can use infrastructures and hire logistic companies in the Government controlled areas of Ukraine to import agricultural goods into the Union. EU companies and EU companies operating in the Union can also procure services from other non-EU companies in the Government controlled areas of Ukraine, with the exceptions of Belarusian and Russian companies and under the caveat that they are not listed or owned or controlled by listed persons by EU sanctions. See in this respect FAQs on Assets freeze and prohibition to provide funds or economic resources, FAQ on Circumvention and due diligence, and FAQs on trade in agricultural and related products from Russia.

3. **Can EU companies export phytosanitary products (e.g. herbicides or fungicides) or fertilisers to the Ukrainian Government controlled areas of Ukraine?**
   Last update: 22 June 2022

Yes. There are no restrictions in place on the export of those products from the Union to Government controlled areas of Ukraine. Hence, EU companies can export plant protection products, such as herbicides, fungicides, or fertilisers to the Government controlled areas of Ukraine (e.g. CN codes: HS38089910 for pesticides and 38089323 herbicides).

4. **Can EU companies provide financing and financial assistance for trade in the Ukrainian Government controlled areas of Ukraine to support the agricultural sector?**
   Last update: 22 June 2022

Yes. There are no restrictions in place on providing financing or financial assistance to companies and individuals in Government controlled areas of Ukraine.

5. **Can EU companies import agricultural goods from the non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine, or from Crimea and Sevastopol?**
   Last update: 7 February 2023

Imports of agricultural products originating from non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine, Crimea and Sevastopol are possible only if approved by the Ukrainian government. Specifically, imports are possible if goods originating in those areas have been made available to the Ukrainian authorities for examination, for which compliance with the conditions conferring entitlement to preferential origin has been verified and for which a certificate of origin has been issued in accordance with the EU-Ukraine Association Agreement (Article 2(2)(b) of Council Regulation (EU) 2022/263 and Article 3(b) of Council Regulation (EU) No 692/2014).

The above applies irrespective of the routing of the products (i.e. if the products are transported from those areas to the Government controlled areas of Ukraine and then to the EU, which is unlikely given the conflict, or from those areas to a non-EU country, including Russia, and then the Union). The import restriction on goods originating from these areas is justified by the fact that, as these territories are controlled by the Russian army, goods have most likely been illegitimately seized.

A Member State national competent authority can also authorise the payments by EU companies or companies doing business in the EU to the Crimean Sea Ports for services provided at the ports of Kerch Fishery Port, Yalta Commercial Port and Evpatoria Commercial Port, and for services provided by Gosgidrografiya and by Port-Terminal branches of the Crimean Sea Ports,

for instance, if that is needed for the shipping of agricultural products. (Article 6a of Council Regulation (EU) 269/2014).

6. **Are non-EU companies required to comply with EU sanctions when they import agricultural products from Ukraine? Does it make any difference if those goods transit through the EU territories or if the Euro is used as a currency for the transaction?**
   Last update: 22 June 2022

EU sanctions are never extraterritorial and do not apply to non-EU companies or individuals that do business or trade entirely outside the Union. By way of example, a non-EU company shipping agricultural products from Ukraine directly to non-EU countries has no obligations under EU sanctions. However, if the same company imports the products via the EU or carries out payments in the Union, then it has to comply with EU sanctions as it is entering the EU internal market. Every sanctions regulation includes a 'jurisdiction provision' which clarifies who has to comply with EU sanctions (e.g. Article 10 of Council Regulation (EU) No 692/2014).

COMMERCE DES PRODUITS AGRICOLES ET DES PRODUITS CONNEXES EN PROVENANCE D'UKRAINE

1. **Les sanctions de l'Union prévoient-elles une interdiction de l'importation dans l'Union ou du transit par son territoire de produits agricoles en provenance d'Ukraine, y compris des zones des oblasts de Donetsk et de Louhansk non contrôlées par le gouvernement ou de Crimée/Sébastopol?**
   Dernière mise à jour: 11 juillet 2022

Non. Les sanctions de l'Union ne restreignent pas l'achat ou l'importation dans l'Union de produits agricoles en provenance d'Ukraine, exception faite des produits provenant des zones des oblasts ukrainiens de Donetsk et de Louhansk non contrôlées par le gouvernement ou de Crimée/Sébastopol («zones d'Ukraine contrôlées par le gouvernement»). Le transit de ces produits par le territoire de l'Union et leur exportation à partir de celui-ci vers des pays tiers sont également autorisés. Dans le cas peu probable où ces produits seraient fournis à des entreprises ou à des personnes visées par un régime de sanctions de l'Union et où les exportations seraient donc en principe interdites, des exceptions sont prévues, en particulier à des fins humanitaires. En cas de doute, les entreprises de l'Union doivent s'adresser à l'autorité nationale compétente de leur État membre. Voir également la FAQ sur le gel des avoirs et l'interdiction de mettre à disposition des fonds ou des ressources économiques et la FAQ sur le contournement et le devoir de diligence.

En ce qui concerne les importations ou le transit de produits agricoles originaires des zones des oblasts ukrainiens de Donetsk et de Louhansk non contrôlées par le gouvernement ou de Crimée/Sébastopol, voir la question 5 ci-dessous.

2. **Les entreprises de l'Union peuvent-elles se procurer des services logistiques auprès d'entreprises établies dans les zones d'Ukraine contrôlées par le gouvernement ukrainien lorsqu'elles importent des produits agricoles par voie maritime, terrestre, fluviale ou aérienne?**
   Dernière mise à jour: 11 juillet 2022

Oui. Les sanctions de l'Union ne prévoient pas de restrictions concernant l'achat de services logistiques ou d'autres services auxiliaires dans les zones d'Ukraine contrôlées par le gouvernement ukrainien. À titre d'exemple, les entreprises de l'Union peuvent utiliser les infrastructures et engager des entreprises logistiques dans les zones d'Ukraine contrôlées par le gouvernement pour importer des produits agricoles dans l'Union. Les entreprises de l'Union et les entreprises exerçant des activités dans l'Union peuvent également obtenir des services auprès d'entreprises de pays tiers établies dans les zones d'Ukraine contrôlées par le gouvernement, à l'exception des entreprises biélorusses et russes et sous réserve qu'elles ne figurent pas sur la

liste des sanctions de l'Union, ou qu'elles ne soient pas détenues ou contrôlées par des personnes inscrites sur cette liste. Voir à cet égard la FAQ sur le gel des avoirs et l'interdiction de mettre à disposition des fonds ou des ressources économiques, la FAQ sur le contournement et le devoir de diligence et la FAQ sur le commerce des produits agricoles et des produits connexes en provenance de Russie.

3. **Les entreprises de l'Union peuvent-elles exporter des produits phytosanitaires (des herbicides ou des fongicides par exemple) ou des engrais vers les zones d'Ukraine contrôlées par le gouvernement ukrainien?**
   Dernière mise à jour : 11 juillet 2022

Oui. Il n'existe aucune restriction à l'exportation de ces produits à partir de l'Union vers les zones d'Ukraine contrôlées par le gouvernement. Par conséquent, les entreprises de l'Union peuvent exporter des produits phytopharmaceutiques, tels que des herbicides, des fongicides ou des engrais, à destination des zones d'Ukraine contrôlées par le gouvernement (par exemple, les pesticides et les herbicides dont les codes de nomenclature combinée respectifs sont HS38089910 et 38089323).

4. **Les entreprises de l'Union peuvent-elles apporter des financements ou une aide financière aux échanges commerciaux dans les zones d'Ukraine contrôlées par le gouvernement ukrainien afin de soutenir le secteur agricole?**
   Dernière mise à jour : 11 juillet 2022

Oui. Il n'existe aucune restriction à l'octroi d'un financement ou d'une aide financière aux entreprises et aux particuliers établis dans les zones d'Ukraine contrôlées par le gouvernement.

5. **Les entreprises de l'Union peuvent-elles importer des produits agricoles en provenance des zones des oblasts ukrainiens de Donetsk et de Louhansk non contrôlées par le gouvernement, de Crimée ou de Sébastopol?**
   Dernière mise à jour : 11 juillet 2022

Les importations de produits agricoles originaires des zones des oblasts ukrainiens de Donetsk et de Louhansk non contrôlées par le gouvernement, de Crimée et de Sébastopol ne sont possibles que si elles sont approuvées par le gouvernement ukrainien. Plus précisément, les importations sont possibles si les marchandises originaires de ces zones ont été mises à la disposition des autorités ukrainiennes pour examen, si elles respectent de manière avérée les conditions ouvrant droit à l'origine préférentielle et si elles font l'objet d'un certificat d'origine délivré conformément à l'accord d'association UE-Ukraine [article 2, paragraphe 2, point b), du règlement (UE) 2022/263 du Conseil et article 3, point b), du règlement (UE) nº 692/2014 du Conseil].

Les conditions précitées s'appliquent indépendamment de l'acheminement des produits (c'est-à-dire si les produits sont transportés depuis ces zones vers les zones d'Ukraine contrôlées par le

gouvernement, puis vers le territoire de l'Union, ce qui est peu probable compte tenu du conflit, ou depuis ces zones vers un pays tiers, y compris la Russie, puis vers le territoire de l'Union). La restriction à l'importation de marchandises en provenance de ces zones est justifiée par le fait que, ces territoires étant contrôlés par l'armée russe, les marchandises ont très probablement été saisies de manière illégitime.

Les autorités nationales compétentes d'un État membre peuvent également autoriser les paiements effectués par des entreprises de l'Union ou des entreprises exerçant des activités dans l'Union en faveur de Crimean Sea Ports pour les services fournis au port de pêche de Kerch et aux ports commerciaux de Yalta et d'Evpatoria, ainsi que pour les services fournis par l'entreprise Gosgidrografiya et par les succursales de Crimean Sea Ports situées dans des terminaux portuaires, si cela s'avère nécessaire au transport de produits agricoles par exemple [article 6 *bis* du règlement (UE) nº 269/2014 du Conseil].

6. **Les entreprises de pays tiers sont-elles tenues de se conformer aux sanctions de l'Union lorsqu'elles importent des produits agricoles en provenance d'Ukraine? Le fait que ces produits transitent par le territoire de l'Union ou que l'euro soit utilisé comme monnaie pour la transaction change-t-il quelque chose?**
   Dernière mise à jour : 11 juillet 2022

Les sanctions de l'Union n'ont jamais d'effet extraterritorial et ne s'appliquent pas aux entreprises ou aux particuliers établis en dehors de l'Union qui exercent des activités commerciales entièrement hors de son territoire. À titre d'exemple, une entreprise établie dans un pays tiers qui expédie directement des produits agricoles d'Ukraine vers des pays tiers n'a aucune obligation au titre des sanctions de l'Union. Toutefois, si la même entreprise importe les produits via le territoire de l'Union ou effectue des paiements dans l'Union, elle doit alors se conformer aux sanctions de l'Union, étant donné qu'elle entre sur le marché intérieur de l'Union. Chaque règlement concernant des sanctions comprend une «disposition relative à la compétence», qui précise qui doit se conformer aux sanctions de l'Union [par exemple, l'article 10 du règlement (UE) nº 692/2014 du Conseil].

G. SECTOR SPECIFIC QUESTIONS

1. MEDIA

RELATED PROVISION: ARTICLE 2f OF COUNCIL REGULATION 833/2014; ARTICLE 2 OF COUNCIL REGULATION 269/2014

FREQUENTLY ASKED QUESTIONS – AS OF 14 MAY2024

1. **On what grounds has the EU imposed restrictions on certain Russian media outlets?**
   Last update: 14 May 2024

Russian media outlets subject to a broadcasting ban according to Article 2f of Council Regulation 833/2014 have been instrumental in preparing and supporting Russia's invasion of Ukraine, participating in Russia's systematic information manipulation and disinformation under the permanent direct or indirect control of the leadership of the Russian Federation. As key pillars to Russia's continuous and concerted propaganda actions used to disinform global audiences, they pose significant and direct threat to the Union's public order and security.

2. **Does the prohibition also cover the dissemination of content through other means such as a website? Does the content only include the TV stations of the targeted entities, or does it also cover their websites and/or other content that they might disseminate over the Internet?**
   Last update: 23 March 2022

Yes. The field of application of this provision goes beyond the mere broadcasting of TV stations. The term 'broadcast' in conjunction with 'any content' is to be understood, in light of the objective of the provision, as covering a broader range of content provision than the term 'television broadcasting' used in the Audiovisual Media Services Directive[35]. It should be understood as transmitting, disseminating or distributing any type of content in the broadest possible meaning (long videos, short video extracts, news items, radio etc.) to an audience regardless of the means of transmission, dissemination or distribution (including online).

The terms 'facilitate or otherwise contribute to' are meant to also cover the activities that serve or are instrumental for the transmission, dissemination or distribution of content provided by the targeted entities to other media outlets.

Furthermore, by virtue of the anti-circumvention clause (laid down in Article 12) it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation including by acting as a substitute for natural or legal persons, entities or bodies targeted by the Regulation.

[35] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, OJ L 95, 15.4.2010, p. 1–24.

3. **The targeted entities have Internet subdomains and also newly-created domains. Are EU operators obliged to avoid enabling, facilitating or otherwise contributing to access to all such subdomains and new domains?**
   Last update: 8 June 2023

The entity that registers a domain has control over the subdomains; if the domain is blocked, its subdomains should be blocked as well. The prohibition laid down in the Regulation also applies to newly created Internet domains that are in substance run or controlled by the targeted entities or used to circumvent the prohibition at issue.

Indicative and non-exhaustive lists of domains and subdomains can be found in the websites of some national regulators:

- https://www.rtk.lt/lt/atviri-duomenys/ribojimai-susije-su-tarptautiniu-sankciju-igyvendinimu
- https://www.rtk.lt/uploads/documents/files/atviri-duomenys/neteisetos-veiklos-vykdytojai/IP_adresu_sarasas.txt
- https://www.rtk.lt/lt/atviri-duomenys/neteisetos-veiklos-vykdytojai
- https://www.rtr.at/Paragraf_64_3a_AMD-G
- https://ttja.ee/ariklient
- https://www.teleindu.dk/brancheholdninger/blokeringer-pa-nettet/

4. **Does the Regulation create obligations for parties other than operators of cable, satellite, IP-TV, Internet Service Providers, or online video-sharing platforms?**
   Last update: 23 March 2022

The Regulation sets out a number of examples of activities ('such as'), so it also applies to, for instance, caching services, search engines, social media or hosting service providers whose services can be used to disseminate propaganda from the targeted entities.

5. **As part of their reporting, can journalists acting in good faith transmit (extracts of) content created by the targeted entities?**
   Last update: 14 May 2024

The prohibition to broadcast or to facilitate the broadcast of content originating with the targeted entities must be understood in light of the objective of the measure, which is to fight propaganda. Media have the freedom to report and inform objectively on current events. In this regard, the Commission considers that extracts from targeted entities may be used by other operators in an objective way, to inform readers/viewers objectively and completely by illustrating the type of information given by the targeted outlets.

At the same time, the use of these extracts must not be used for circumvention of sanctions,

which is also prohibited.

6. **The prohibition includes responsibilities for operators to ensure that the ban is enforced. "Operators" is not a defined term; how should this term be understood?**
   Last update: 23 March 2022

The Regulation sets out a broad and comprehensive prohibition. The Regulation prohibits both the broadcasting (lato sensu) and the fact that operators "enable, facilitate or otherwise contribute to broadcast". Accordingly, the prohibition applies to any person or entity or body exercising a commercial or professional activity that broadcasts or enables, facilitates or otherwise contributes to broadcast the content at issue.

Furthermore, by virtue of the general and broadly couched anti-circumvention clause in Article 12 of Regulation 833/2014, it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent the prohibition at issue, including by acting as a substitute for a natural or legal person, entity or body subject to the prohibition in Article 2f of the Regulation.

The operators cannot shield themselves from the obligations under the Regulation 833/2014 by invoking other provisions of secondary EU law such as Article 15 e-commerce Directive.

7. **Do the activities of an EU-based operator selling satellite capacities to a company in a third country, which may use this capacity to broadcast the content of the restricted channels in this third country, fall within the scope of the prohibition set out in Article 2f?**
   Last update: 30 June 2022

The prohibition applies not only to the broadcasting activities themselves, but also to those activities enabling, facilitating or otherwise contributing to the broadcast of any content by the legal persons, entities or bodies listed in Annex XV. Given that the making available of such satellite capacities would enable broadcasting, this is prohibited.

Furthermore, in accordance with Article 13 of Regulation 833/2014, the Regulation applies to any legal person, entity or body which is incorporated or constituted under the law of a Member State. Therefore, the prohibition applies to an EU operator based within the territory of the Union, even for sales to a third country.

8. **Are there derogations to the prohibition for EU operators to sell listed channels in situations where this prohibition would affect sales of non-listed channels to the same client?**
   Last update: 30 January 2023

EU-based operators frequently offer "bouquets" of channels for sales. In situations where bouquets include both listed and non-listed channels, Council Regulation 833/2014 does not

contain any derogation to the prohibition of Article 2f. Thus, it is prohibited for EU operators to sell this kind of bouquets.

9. **Are there derogations to the prohibition for EU operators to sell listed channels in situations where this prohibition would affect sales to public entities?**
   Last update: 30 January 2023

There is no derogation nor exemption to Article 2f of Council Regulation 833/2014 in case of sales to public entities.

10. **Certain Russian media outlets are listed in Annex I to Council Regulation 269/2014. What does the freezing of their "economic resources" entail?**
    Last update: 14 May 2024

A number of media outlets are listed in Annex I to Council Regulation 269/2014. As a result, their funds and economic resources must be frozen and no funds or economic resources can be made available to them.

The concept of "economic resources" includes assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services.

In the context of the media sector, the Commission considers that the broadcasting of content can be considered an "economic resource", as such content can be used for advertising products and services. Consequently, broadcasting the content of listed entities is prohibited.

The prohibition to make economic resources available includes the prohibition to provide internet services, satellite capacities, content hosting services or any other means that could be used to obtain funds by the listed entities.

11. **I can see that content produced by persons or entities listed in Annex I to Council Regulation 269/2014 is being made available or broadcasted by online video sharing platforms and music streaming service providers. Is it a breach of the Regulation?**
    Last update: 14 May 2024

No funds or economic resources can be made available to listed persons and entities.

In the Commission's view, making available or broadcasting music, video or other content produced by listed persons, even if this is done for free, creates visibility for these persons and allows them to promote their production, gain money from advertisement or incite their audience to buy products such as recordings or concert tickets. Therefore, this can amount to making economic resources available to the listed persons.

If you believe you are witnessing sanctions violations or circumvention, these can be reported to your national competent authority or anonymously via the EU whistle-blower tool.

2. AVIATION

RELATED PROVISIONS: ARTICLE 3c; ARTICLE 3d OF COUNCIL REGULATION 833/2014

1. **Is a non-Russian operator that operates a Russian registered aircraft affected by the measures?**
   Last update: 21 March 2022

Yes – the measures prohibits flights of not just Russian air carriers, but also of all Russian registered aircraft, regardless of operator.

2. **Does this ban concern also private (i.e. non-commercial) flights of aircraft owned or rented by Russian citizens or Russian companies?**
   Last update: 21 March 2022

Yes, also private aircraft are included in the ban. This means that also e.g. private business jets are banned.

3. **Does this ban concern EU or third-country registered aircraft which are rented by Russian citizens?**
   Last update: 21 March 2022

Yes.

4. **Our company has been requested to provide a service but we are not sure whether it is covered by the new measures. What are our responsibilities?**
   Last update: 21 March 2022

In case of doubt, you can always contact the competent authorities of the MSs or the European Commission.

But, it is important to keep in mind that Article 12 of Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/334, on 28 February 2022, states that it is prohibited to participate in activities the object or effect of which is to circumvent prohibitions in this Regulation.

Moreover, companies are also recommended to report attempts of circumvention to the local authorities. Anyone can report sanctions violations to national authorities or the European Commission.

5. **We have leased a non-Russian registered aircraft to a Russian operator. Can we fly the aircraft back from Russia?**
   Last update: 21 March 2022

If the leasing contract is cancelled to the effect that the aircraft is no longer operated or controlled by a Russian entity, it is not covered by the EU Sanctions and may return to the EU without problems.

It may also be returned under the exceptions provided for the Regulation with the specific and duly justified permission of the relevant Member State(s) even if the contract has not been cancelled.

6. **How can we enforce the rules as regards "non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body" since we do not know about the parties behind e.g. an EU registered private aircraft?**
   Last update: 21 March 2022

It is correct that in particular for overflights, immediate control and enforcement will be difficult. However, the States should brief their ramp check personnel to pay particular attention to this regulation, when checking aircraft that have landed on their territory. In addition to checking documents, the crew should be asked questions about passengers etc. It should also be kept in mind, and communicated to stakeholders, that any entity that is found to have breached the sanctions or participated or assisted in circumventing them may face legal consequences.

7. **Does the ban cover just Member States own airspace, or also high-seas airspace controlled by the said Member State?**
   Last update: 21 March 2022

The Regulation applies to the territory of the Union.

High seas airspace is therefore not covered by the regulation. Only Member States own airspace is covered.

8. **NOTAM text: We do not expect Russian Search & Rescue aircraft to operate in our airspace. Do we need to include this mention in the NOTAM?**
   Last update: 21 March 2022

It is better that each State publishes an identical NOTAM, to avoid any confusion about whether the EU MS are acting in a coordinated manner, or whether some MS might have different rules. If there are no SAR flights in one States airspace, then this mention remains a dead letter, but at

least it avoids confusion about having a common line in the EU.

9. **What is the point of mentioning one-way returns? Is this not contradicting the legal text?**
   Last update: 21 March 2022

The mention aims to facilitate the return flights for aircraft owned by the EU leasing companies. Once the leasing contract is terminated by the leasing company, the aircraft is no longer affected by the ban and may be flown back but States may also authorise a return in accordance with Article 3d(3) of Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/334, on 28 February 2022, even if the contract has not been terminated yet.

10. **Do we need to specifically authorise also humanitarian or SAR flights, or does this requirement apply only to leased flights?**
    Last update: 21 March 2022

The requirement for carrying a specific authorisation applies to all these flights. Otherwise an overflight might be able to circumvent the rules by simply claiming to be humanitarian flight.

11. **Does the ban apply also in case of a person who is a dual citizen (e.g. has both Russian and EU passports)?**
    Last update: 21 March 2022

Yes, they remain citizens of Russia, even if they also hold a second passport from elsewhere.

Article 3d: (1) It shall be prohibited for any aircraft operated by Russian air carriers, including as a marketing carrier in code-sharing or blocked-space arrangements, or for any Russian registered aircraft, or for any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body, to land in, take off from or overfly the territory of the Union.

If a person holds RU passport (as well as any other passports /dual/multi citizenship), this person is to be treated as RU citizen for the purpose of Article 3d of this Regulation, for all cases of an ownership, chartering and control of aircraft, also when having the EU Member States residency.

It is up to the national authorities/operators to assess whether the operation is in line with the Regulation. All stakeholders should bear in mind a liability for the circumvention of the prohibition as foreseen in Article 12 of the Regulation.

12. **Do these restrictions apply to Russian citizens having a permanent stay permit within the EU Member State as well?**
    Last update: 21 March 2022

Yes, they do.

13. **Are repatriation flights carrying Russian citizens back to Russia allowed with aircraft that would be otherwise banned?**
    Last update: 21 March 2022

Genuine repatriation flights could be considered in the context of the Regulation. Measures to ensure that repatriation flights are genuine could be the following:

- The operator must demonstrate that the flight is genuinely a repatriation, and not just a regular scheduled flight that happens to have missed the start of the ban. E.g. a plane flying in empty to pick up pax;
- Passengers should be identified by the local consulate;
- The plane must only carry Russian citizens and residents without return flight or connecting flight outside Russia;
- Authorities must check every pax to determine genuine repatriation;
- A flight with just a handful of pax on board could be an indication that the flight is not genuinely a repatriation flight; same goes for a flight operated by private or business jet;
- Repatriation flights usually take place soon after the event in question; additional checks may be required when this is not the case.
- Authorities should also consider that repatriation could also take place through other flight connections and other modes of transport.

14. **Do these restrictions apply also to Russian citizens owning EU legal persons that registered the aircraft in the EU Member State?**
    Last update: 21 March 2022

Yes they do.

Please note the wording in Article 3d, which says "or for any non-Russian-registered aircraft which is owned or chartered***, or otherwise controlled*** by any Russian natural or legal person". The intention of this wording is to avoid the possibility of circumventing the rules by some legal construct.

15. **Do these restrictions apply also to an aircraft that has been in maintenance in the EU and would now return to Russia?**
    Last update: 21 March 2022

Yes. A maintenance return flight would not qualify as a humanitarian flight or one that is

compatible with the objectives of this Regulation.

16. What is the process to coordinate with the Network Manager for flights to which derogations are issued?
Last update: 21 March 2022

To ensure that the Network Manager can handle all information related to derogations, the following process should be used until further notice:

- Operators need to seek derogation (including humanitarian[36]) from the competent authority of each State they wish to fly to/over/from. This is applicable for flights intended in any EU State, as well as for flights intended in any additional State that has banned flights via NOTAM. An overview of the NOTAMs issued for the Eurocontrol Network Manager (NM) area in relation to the Ukraine crisis can be found in the NM NOP portal https://www.public.nm.eurocontrol.int/PUBPORTAL/gateway/spec/index.html
- Once all necessary approvals have been received, and minimum 1 hour before the flight plan is filed, contact the NM Operations Centre (NMOC) Operations Manager (OM) via email to inform of the flight for which the necessary authorisations have been received. Please include c/s, ADEP, ADES and EOBT in the email (to: nm.om@eurocontrol.int; cc: nm.ifps.spvr@eurocontrol.int). The NMOC OM will then ensure that the flight plan is not rejected by the NM system.
- The flight plan must be filed with a remark: Authorisation received from …(listing all the relevant/approving States within the NM area)

17. Can request for diplomatic flights be authorised?
Last update: 21 March 2022

Yes.

Authorisations for diplomatic flights would not be contrary to the objectives of the Regulation, so they could in principle be authorised. However, in order for this exception not to be abused such authorisation should be granted at the request of the State (MS or third State) organising the meeting, or the State of the seat of the international organisation (e.g. CH for UN meetings in Geneva, FR for meetings of the Council of Europe in Strasbourg), and not of Russia itself. In this way, it will be possible to confirm the purpose, duration and other conditions of the diplomatic flight.

[36] Humanitarian flight; repatriation flight, other derogation – see Q18.

18. What exemptions can be granted by MSs in accordance with the Regulation?
Last update: 21 March 2022

The sanctions Regulation provides in its article 3d(3) that Member States can authorise the landing, take-off or overfly of Russian aircrafts if necessary for humanitarian purposes or for any other purpose consistent with the objectives of the Regulation.

This provision, being a derogation from the general prohibition should be read strictly and therefore not invoked beyond those two limited grounds. This is an assessment that has to be done by the national competent authority on a case-by-case basis and taking into account all available evidence.

Humanitarian flights are those operated for purely humanitarian purposes such as delivering or facilitating the delivery of assistance, including medicine, medical supplies or food. Transport of humanitarian workers as well as evacuations, including medical evacuations and ambulance flights, would also fall in this category. We invite MSs to make sure that they refer to humanitarian flights authorisations only when those flights fall under the situations described above.

In previous replies, it has already been clarified that repatriation flights and diplomatic flights can be considered as falling in the scope of the derogation under certain conditions.

Other circumstances, like transporting essential materials that can only be transported by a particular type of planes, might fall within the scope of the exception.

However, it will be important that these other flights are not labelled as 'humanitarian' and the MSs provide the necessary information to dully justify the granting of an authorisation.

19. What about overfly authorisation to repatriate passengers stranded in third countries?
Last update: 21 March 2022

Flights for the repatriation of passengers stranded in the EU have no option but to overfly the EU territory to get back to Russia.

However, in the case of passengers stranded in third countries (like Caribbean Islands) there is the possibility to fly back to Russia without overflying the EU territory. They will just have to follow a longer route. EU airlines will also have to fly longer routes to go to Asia. Therefore, we do not consider that an authorisation should be granted for so-called repatriation flights from third countries were alternative – although longer - routes exist.

20. **Russian passengers:**
    Last update: 21 March 2022

To be clarified that a RU national (regardless of any other citizenship), who is not covered by any personal sanctions can freely use any scheduled flight offered by any EU airline.

21. **Stakeholders /national authorities responsibility:**
    Last update: 21 March 2022

In the following cases:

- the private charter flight done via brokers where the nationality is not checked
- flight goes via airport/ business aviation sector where inspections or checks are incidental
- flight operated on the basis of a self-declaration that is in line with the Regulation

We advise that all involved in the booking need to do proper "due diligence" and actively question potential customers, as normal practices do not suffice under this exceptional circumstances. Therefore, if asked to provide an aircraft, your members need to actively question every customer to verify that they are not either themselves Russians or acting on behalf of a Russian entity. They also need to go beyond just asking the passenger to state or sign something and see for example what languages the customers use, how their luggage looks (i.e. signs of frequent Russian travel etc.) or other elements that could help determine what the actual truth is.

If the operator has any doubts then should check with the national authorities. It is important to keep in mind Article 12 of the Regulation concerning the liability for the circumvention of the measures.

In our opinion, the self-declaration is not enough, as may lead to the circumvention of the sanctions. For example, a dual citizenship (RU not declared) should be taken into account.

22. **Does Article 3c(5) of Council Regulation 833/2014 applies to the provision of insurance and reinsurance to leasing contracts for aircraft and engines?**
    Last update: 21 March 2022

Article 3c(5) of Council Regulation (EU) No 833/2014, read in conjunction with Articles 3c(4)(b) and 1(o) of the same Regulation, allows, until 28 March 2022, the provision of insurance or reinsurance to leasing companies for aircraft and engines subject to operating or finance lease arrangements signed before 26 February 2022, including when such aircraft or engine is used in Russia or leased to a Russian person.

23. What is meant by "for use in Russia" in the context of Article 3c of Regulation 833/2014?

Last update: 2 June 2022

The term "for use in Russia" should be understood as covering the sale/supply/transfer/export of goods/services which would be used in Russia, including operations between two points in Russia.

For example, this applies to flights between two points in Russia, whether in connection or not with an international service. Strictly speaking, in-and-out types of operations are not covered by the sanctions. However, as soon as the in-and-out operation is complemented with a service inside Russia (e.g. Istanbul-Moscow-Saint Petersburg-Istanbul), it falls within the scope of the sanctions.

The interpretation of "for use in Russia" is the same for all the paragraphs of Article 3c (on maintenance, repair, insurance, financing…).

The wording 'for use in Russia' is a formulation used to avoid the circumvention of the measures as it ensures that products and services sold/supplied/provided to third country persons, but to be used in the country subject to sanctions, are also prohibited.

24. What does the exemption for the sharing of technical information in the framework of International Civil Aviation Organisation entail?

Last update: 27 July 2022

Article 3c(4)(a) provides for a prohibition to provide technical assistance for aviation goods and technology, as listed in Annexes XI and XX, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia. Per Article 1(c), technical assistance means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services, including verbal forms of assistance.

With the exemption for the sharing of technical information in the context of the International Civil Aviation Organization (ICAO), technical data pertaining to EU manufactured products and components listed in Annexes XI and XX can be shared to contribute to the technical standard setting work within ICAO groups and panels even in cases where Russia is, among other countries, a member of these groups and panels.

This measure does not amount to technical assistance to Russia. The provision of direct or indirect technical assistance to any natural or legal person, entity or body in Russia or for use in Russia remains otherwise prohibited.

25. Will Russia benefit from this exemption?
Last update: 27 July 2022

No. The sharing of information in the framework of the International Civil Aviation Organization is necessary to enable the global standard setting for air transport. Such information sharing does not amount to technical assistance to Russia. The provision of direct or indirect technical assistance to any natural or legal person, entity or body in Russia or for use in Russia remains otherwise prohibited.

1. Does the derogation under Article 12b(1) of Council Regulation (EU) No 833/2014 allow the sale to Russian entities of leased aircraft lost in Russia?
Last update: 6 July 2023

Inter alia, Article 12b(1) of Council Regulation (EU) No 833/2014 allows the competent authorities to authorise, by way of derogation from Article 3c, the sale, supply or transfer of goods and technologies listed in Annex XI (including aircraft), until 31 December 2023. Such authorisation can only be granted where such sale, supply or transfer is strictly necessary for: (i) the divestment from Russia or (ii) the wind-down of business activities in Russia.

The aim of such derogation is to facilitate an expeditious exit from the Russian market by EU operators.

This derogation does not allow the competent authorities to authorise the sale to Russian entities of leased aircraft lost in Russia, i.e. aircraft that remain in Russia against the will of their non-Russian owner and despite the latter's demand for their return.

The leasing of aircraft to a Russian person does not qualify as investment in Russia. Consequently, the owners/lessors of the aircraft cannot be considered as divesting from Russia for the mere fact that they discontinued the supply of aircraft to that country as a consequence of sanctions imposing them to do so since 26 February 2022, for new contracts, and since 28 March, for pre-existing contracts. Similarly, they should not be considered as winding-down business activities in Russia, to the extent that they have already discontinued the supply of the aircraft to Russia for the same reason and from the same dates onwards.

In any event, the sale of the aircraft would not be strictly necessary for the owners of the aircraft to exit the Russian market, as this exit is possible even if the lessors retain ownership of the aircraft.

3. ACCESS TO EU PORTS

RELATED PROVISION: ARTICLE 3ea OF COUNCIL REGULATION 833/2014

1. **How is the port access ban monitored?**
   Last update: 2 May 2022

The monitoring will be done via the Union Maritime Information and Exchange System[37] (which also links to EQUASIS[38], a public database providing, among other, safety related information on ships and companies). This system supports EU Member States with operational maritime surveillance capabilities in particular by providing the situational maritime awareness picture, tracking any ship movements in near real time. All EU Member States have access to this system and share information via this system.

2. **What is meant by the term "relevant international conventions"?**
   Last update: 2 May 2022

The term refers to SOLAS, MARPOL or Load Lines conventions and the ships falling under their scope (so called convention ships). Effectively, this means ships of 500 GT and beyond (from smaller to the biggest) sailing commercially in international shipping.

3. **How can EU port authorities and operators know if a Russian vessel has changed flag?**
   Last update: 2 May 2022

Every ship worldwide has to be assigned a unique identification number which is provided on behalf of the International Maritime Organization (the 'IMO number'). The IMO number of the vessel is assigned from the time it is built and remains the same throughout her servicing.

As a result, any attempt to circumvent the sanctions by change of flag could be easily identified by the port authorities through a check of the IMO number of the vessel together with the records onboard the ship. In this regard, under SOLAS (International Convention for the Safety of Life at Sea), the ships are also obliged to keep onboard the synopsis report which tracks the history of change of flags. Also port authorities have access to the monitoring system mentioned above.

[37] Established under Directive 2002/59/EC

[38] Electronic Quality Shipping Information System

4. **How to address a ship transporting goods the transport of which may be authorised?**
   Last update: 2 May 2022

The derogations provided for in Article 3ea(5) are subject to prior authorisation from the relevant national competent authority, which can only be granted under strict and specific conditions. If a ship falling under the scope of the prohibition and carrying goods the transport of which may justify an authorisation to access a port requests access to a port in the Union, it is the responsibility of the port authorities to make a case-by-case assessment and supervise that the unloading concerns only goods falling under the derogations and that their unloading is not otherwise prohibited by the Regulation.

5. **Is it prohibited to conduct ship-to-ship operations with Russian flagged vessels?**
   Last update: 2 May 2022

Ship-to-ship operations can occur in different cases, namely a ship-to-ship operation between a Russian flagged vessel and a third country flagged vessel in international waters, a ship-to-ship operation between Russian and EU-flagged vessels, and a Russian flagged vessel and a third-country flagged vessel in territorial waters of a Member State.

By virtue of the non-circumvention clause (laid down in Article 12), it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in Council Regulation 833/2014, including by acting as a substitute for natural or legal persons, entities or bodies targeted by the Regulation. Accordingly, if a ship-to-ship operation takes places with the objective or effect of circumventing the prohibition of Article 3ae of Regulation (EU) No 833/2014, such an operation would be caught by this provision. The determining element is that such a ship-to-ship operation is orchestrated in order for a vessel that is not subject to the port access ban to call in an EU port, where otherwise a Russian flagged vessel could not call in.

Per Article 13, the Regulation applies to all vessels that fall under the jurisdiction of Member States and vessels that are present in the territory of the Union.

6. **Under the derogations in Article 3ea, how should goods be loaded and unloaded?**
   Last update: 2 May 2022

National competent authorities need to ensure that each authorised entry fulfils the derogation conditions laid down in Article 3ea of Council Regulation 833/2014. This means that each entry should be authorised individually. Where a vessel has been authorised to call on a port in order to unload goods subject to a derogation, it must obtain a separate authorisation in order to load goods. A cargo-free vessel may be authorised to call on a port in order to load goods.

The loading of goods is limited to what is allowed under the derogations. Article 3ea, points (a) and (e) refer explicitly to the purchase, import or transport into the Union. Accordingly, loading of goods would only be possible if there is a purchase or further transport into another Union port as final destination. It remains to be determined why a Russian-flagged vessel would provide transport services between two EU ports in such a case. Points (b) and (d) allow for an entry into port whether the purchase, import or transport is for the Union or to a third country.

7. **Can Russian flagged recreational crafts berthed in EU port remain or leave this port?**
   Last update: 2 May 2022

Russian flagged recreational ships that were berthed in the port of a Member State before 16 April 2022 do not fall under the scope of the prohibition since their sole presence does not amount to access into a Union port. However, upon leaving a Union port, any request to return would result in calling into a Union port and be prohibited under Article 3ea.

If such a Russian flagged recreational ship, due to its size or technical characteristics, would not be able to leave the territory of the Union upon exiting the port, Member State authorities should not allow its departure, knowing that it would not be allowed to come back into an EU port. Accordingly, a recreational craft should be allowed to leave the port only if it will travel outside the Union territory.

Furthermore, any person or entity listed in Annex I of Council Regulation (EU) 269/2014 is subject to an asset freeze and any of his/her/its assets, including recreational crafts, should be frozen.

8. **Can a Russian flagged vessel which entered an EU port under the exemption in paragraph 4 be authorised to leave?**
   Last update: 2 May 2022

The national competent authority must ascertain that the ship is entering under the conditions deemed necessary for in paragraph 4. The port access ban does not require blocking a ship which would have entered in accordance with this exemption, hence it may leave the port.

9. **Are fishing vessels excluded from the scope of Article 3ea of Regulation 833/2014?**
   Last update: 5 May 2022

As mentioned in Q2 above, the relevant international conventions are SOLAS, MARPOL and Load Lines (LL) Conventions. As a result, “fishing vessels” are included in the sanction regime only in case they hold any “certificate” issued in accordance with SOLAS, MARPOL or Load Lines (LL) Conventions. Accordingly, at least any fishing vessel certified in accordance with

MARPOL ANNEX IV has to be considered as "ship" for the purpose of Article 3ea(3)(a) of Council Regulation (EU) 833/2014 and falls within the scope of the ban.

10. **Is a bareboat charter out under Russian flag reverting to an EU Member State flag register caught by the prohibition in Article 3ea paragraph 2?**
    Last update: 10 October 2022

Article 3ea covers all Russian flagged vessels, as well as vessels that change their Russian flag or their registration, to the flag or register of any other State after 24 February 2022. Hence, where a bareboat charter sailing under Russian flag reverts to its underlying EU Member State flag or any other flag after 24 February, she should be considered as flying the Russian flag in accordance with Article 3ea paragraph 2. Hence, such a bareboat charter is caught by the prohibition to access EU ports.

If applicable, such vessels may benefit from the exemption or derogations in paragraphs 4, 5, 5a and 5b

11. **Can a Russian flagged ship which changes both ownership and flag after the 24 February trade on EU ports?**
    Last update: 18 May 2022

Article 3ea covers all Russian flagged vessels, as well as vessels that change their Russian flag or their registration, to the flag or register of any other State after 24 February 2022. This prohibition applies irrespective of the ownership of the ship.

12. **Was the port access ban extended by the 8th package?**
    Last update: 10 October 2022

Paragraph 1a of Article 3ea prohibits access to EU ports to any vessel that is certified by the Russian Maritime Registry of Shipping. This prohibition applies irrespective of a vessel's flag state. The prohibition will be applicable from 8 April 2023.

13. **In Article 3ea, paragraph 1a restricts access to ports and locks in the territory of the Union to any vessel certified by the Russian Maritime Register of Shipping. How should 'vessel' be understood?**
    Last update:24 July 2023

The prohibition set out in Article 3ea, paragraph 1a, applies to all vessels certified by the Russia Maritime Register of Shipping. The specific definition of vessel set out in paragraph 3 of this article does not apply to this paragraph. Therefore, all vessels certified by the Russian Maritime

Register of Shipping, irrespective of their type or size, are prohibited from accessing ports and locks in the territory of the Union.

14. In Article 3ea, paragraph 1a, how should 'certified' by the Russian Maritime Register of Shipping be understood?
Last update:24 July 2023

This provision covers any vessels which hold any type of statutory and/or classification certification issued by or on behalf of any flag State by the Russian Maritime Register of Shipping.

The EU has withdrawn the recognition of the Russian Maritime Register of Shipping to act as a recognised ship inspection and survey organisation in the EU39, hence EU-flagged vessels are no longer allowed to have any such certificates. Non-EU flagged vessels with such certifications are banned from ports and locks in the territory of the Union.

15. Can access to ports and locks in the territory of the Union be granted to a vessel that has changed its Russian flag or its registration, to the flag or register of any other State after 24 February 2022, in case it is in need of assistance seeking a place of refuge, or in case of an emergency port call for reasons of maritime safety, or for saving life at sea?
Last update: 24 July 2023

Article 3ea, paragraph 4, provides that the competent authority may provide access to a vessel subject to the prohibitions if it is in need of assistance seeking a place of refuge, for an emergency port call for reasons of maritime safety, or for saving life at sea. This includes vessels that flew the Russian flag prior to 24 February 2022.

16. Do the prohibitions to access ports and locks in Article 3ea, 3eb and 3ec apply to anchorage areas?
Last update: 24 July 2023

As stated in recital 36 of Council Regulation (EU) 2023/1214, the prohibitions relating to port access apply to any vessel, whether it is moored at a port or at anchorage within the jurisdiction of a port of a Member State.

In the case of the Gulf of Finland, those prohibitions relate to any vessel, whether it is moored at a port or at anchorage that is located in the territorial waters or internal waters of a Member State.

[39] Per Article 5aa, paragraph 4, of Council Regulation (EU) 833/2014 and Article 1ab, paragraph 3, of Council Decision 2014/512/CFSP.

In addition, Article 2 point 7 in Directive 2009/16/EC on port State control, covers, if so declared, anchorages: '*Ship at anchorage'* means a ship in a port or another area within the jurisdiction of a port, but not at berth, carrying out a ship/port interface.

17. Which vessels are concerned by the prohibitions set out in Articles 3eb and 3ec?
Last update: 24 July 2023

These prohibitions apply to vessels irrespective of their flag of registration calling into a port or lock in the territory of the Union, namely tankers since the provision relates to the transport of Russian crude oil or petroleum products.

18. Articles 3eb and 3ec refer to ship-to-ship transfers or AIS interference at "any point of a given voyage to a Member State's ports or locks", how should 'voyage' be understood?
Last update: 24 July 2023

The voyage refers to the route the vessel undertakes from the moment it loaded the oil or petroleum products cargo, for as long as it is under way or at sea, such as a vessel laying idle. This covers both direct and indirect routes, irrespective of deviations which occurred from the loading of the Russian oil cargo to the calling at a port or lock in the territory of the Union.

19. How long is a vessel prohibited from accessing ports and locks in the territory of the Union if it is suspected of breaching the prohibitions in Article 3m and 3n by operating a ship-to-ship transfer or turned off its AIS navigation system, by application of Articles 3eb and 3ec?
Last update: 24 July 2023

Such a vessel is prohibited from accessing ports and locks in the territory of the Union as long as it is suspected of breaching the prohibitions in Articles 3m and 3n. Accordingly it cannot access any port or lock in the territory of the Union as long as it transports the relevant cargo of Russian crude oil or petroleum products.

20. **If a ship-to-ship transfer takes place and the competent authority has reasonable grounds to suspect a breach of Articles 3m or 3n, are all vessels involved in this operation prohibited from accessing ports and locks in the territory of the Union?**
Last update: 24 July 2023

Yes. Due to the ship-to-ship transfer, all participating vessels are suspected of being involved in the breach related to the ongoing transport. Accordingly, these vessels cannot be granted access to any port and lock in the territory of the Union.

21. **How do the prohibitions in Articles 3eb and 3ec relate to other maritime safety provisions and prohibitions, such as the banning under the port State control Directive 2009/18/EC or the banning of single hull oil tankers in Regulation (EU) No 530/2012?**
Last update: 24 July 2023

The maritime safety network as established and provided for in EU law, including in particular Directive 2009/18/EC on port State control, Regulation (EU) No 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers, Directive 2002/59/EC on VTMIS and, Directive 2009/20/EC on the insurance of shipowners for maritime claims and in particular Article 5.2 therein, remain unaffected and applicable for any voyage and port call to the EU Member States or along EU Member States coastlines. These apply to any offence committed at any point irrespective of when the voyage took place.

22. **If a vessel was involved in a breach of the port access ban prohibitions in Articles 3eb or 3ec, but is later sold on to another owner or chartered to another company, can it access ports and locks in the territory of the Union?**
Last update: 24 July 2023

As stated in FAQs 19 and 20, a vessel is prohibited from accessing ports and locks in the territory of the Union as long as it is suspected of breaching the prohibitions in Articles 3m and 3n. Accordingly it cannot access any port or lock in the territory of the Union as long as it transports the relevant cargo of Russian crude oil or petroleum products.

That prohibition thus ceases once the suspicion has been cleared or the cargo has been unloaded, hence the subsequent owner will not be affected by it. Of course, if the sale occurs while the suspicion remains or the cargo is still on board, then the prohibition remains.

23. **Are vessels calling into ports and locks in the territory of the Union under an obligation to notify ship-to-ship transfers under the Sanctions Regulation?**
Last update: 24 July 2023

As required by paragraph 2 of Article 3eb, vessels must notify a scheduled ship-to-ship transfer occurring in the exclusive economic zone of a Member State or within 12 nautical miles from the baseline of that Member State’s coast, at least 48 hours in advance. Accordingly, where such an operation has not been notified, competent authorities should not grant access.

24. Can a vessel that has been refused access in a Member States' port or lock on the basis of Articles 3eb or 3ec call into another port or lock in the territory of the Union?

Last update: 24 July 2023

Where a vessel has been refused access, the competent authorities of this Member State will immediately notify all other relevant competent authorities, including port authorities, via the existing arrangements at their disposal and provided by EMSA. This notification obligation aims at avoiding 'port/forum shopping' by vessels. Based on the mutual trust and cooperation that competent authorities should award one another, Member States should refuse access once they receive notification of a refusal that has been issued by any other competent authority.

25. How should 'illegally interfering, switching off or otherwise disabling the automatic identification system' be understood in Article 3ec?

Last update: 24 July 2023

This provision also concerns instances in which a vessel deliberately provides false information by AIS.

Ships are prohibited from illegally interfering, switching off or otherwise disabling except in a situation of imminent danger. It may be the case that a short interference or switching off is accidental, in which case such incidents should be logged.

Such occurrence should be appreciated as part of the broader activity of the vessel. However, disablement for longer periods is an indication that suspicious activity is ongoing. Competent authorities can require and check a vessel's AIS records, via the integrated maritime services in the Union Maritime Information and Exchange System to ascertain whether the AIS was switched off, gaps in signals or providing 'incorrect or false' positions.

That prohibition does not apply in circumstances where the navigation system can be legitimately turned off in accordance with international agreements, rules or standards that provide for the protection of navigational information, such as navigation through high-security-risk waters.

26. How should Member States competent authorities monitor ship-to-ship transfers or the illegal interfering or turning off of a vessel's AIS?

Last update: 24 July 2023

The Commission, with the assistance of the European Maritime Safety Agency (EMSA), will support Member States in the monitoring and notification of suspicious ship-to-ship transfers and incidents of illegally interfering with, switching off or otherwise disabling the shipborne AIS, e.g. for tankers navigating within the 200 nautical miles limit from Member States' coastlines.

It will, in addition to any national system and information, facilitate and support the continuous maritime surveillance and situational awareness at sea as well as exchange and sharing of information using the Union Maritime Information and Exchange System.

27. Articles 3eb and 3ec provide that port access should not be granted if a competent authority has « reasonable cause to suspect » that the vessel is in breach of the relevant prohibitions. How should Member States competent authorities assess a suspicious ship-to-ship transfer or interference/turning off a vessel's navigation system?

Last update: 24 July 2023

The competent authority should conduct an assessment on the basis of a risk analysis.

Accordingly, it should determine whether there are objective indicators from which it can infer knowledge or form suspicion that a vessel (or vessels) is breaching the prohibitions set out in Article 3m (prohibition to import Russian oil) and 3n (prohibition to transport Russia oil above the price cap). This is a factual, evidence-based, risk assessment.

28. What should Member States competent authorities' consider when making such a risk analysis?

Last update: 24 July 2023

The risk assessment can be based on many indicators, that should be weighed as is most relevant based on a specific case.

Such assessment can be aggregated from multiple sources such as [non-exhaustive list]:

- Port of origin and port of calls during the voyage, including mooring at anchorage
- Insurer and coverage of insurance
- Cargo declarations
- Proof of carrying price capped Russian crude oil or petroleum products
- Route the vessel has undertaken in light of the notified cargo to be transporting, and explanations provided in that regard
- History of a vessel's activities, including security notifications
- Past track-record of denials to enter Member States' ports
- Information shared by other Member States, in particular neighboring countries, or the Commission

- Compliance with notification obligations

For ship-to-ship transfers:

- Previously operated ship-to-ship transfers
- Compliance with mandatory notifications and reporting obligations for ship-to-ship transfers under EU and international law, including for the transport of dangerous goods or polluting goods, namely crude oil and petroleum products, as well as security notifications[40]

For AIS switching off or manipulations:

- Frequency of occurrence
- Length of occurrence
- Area of occurrence
- Explanations provided by the vessels when asked about the reasons for the occurrence
- Reasonableness of the route taken by the vessel prior to, or after turning off the AIS, and of the location of the vessel when the AIS was turned off
- Publicly available information about illegal oil operations happening in the area of the occurrence

The Commission with the assistance of the European Maritime Safety Agency (EMSA) will publish notices of behavior at risk of breaching maritime sanctions.

29. What sort of notification obligations can a competent authority take into account when assessing whether it has reasonable cause to suspect a breach of Articles 3m and 3n?
Last update: 24 July 2023

Vessels must comply with various notification obligations under Union and international law depending, amongst others, on their location and the type of cargo they are transporting, for instance there is a reporting of incidents and accident at sea requirement under Union law41. Member States shall monitor and take all appropriate measures to ensure that the master of a ship within their search and rescue region/exclusive economic zone or equivalent, immediately

[40] Regulation 9, Annex I of the (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security implementing the IMO ISPS – Code (Maritime Security Code).

[41] Article 17, Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system.

reports to the coastal station responsible for that geographical area, any incident or accident affecting the safety of the ship and/or, any situation liable to lead to pollution of the waters or shore of a Member State, such as the discharge or threat of discharge of polluting products into the sea (which is an inherent risk when performing e.g. STS operations).

In addition, there is also an obligation to notify to the coastal State 48 hours in advance about a ship-to-ship transfer per Annex I to the International Convention for the Prevention of Pollution from Ships, Regulation 42 (MARPOL) and specifies the minimum information to be included in such notifications.

Furthermore the mandatory reporting obligation for Security Notifications also covers ship-to-ship transfers. The ship-to-ship transfers must be reported at the same time as the last ten port calls. This applies to international voyages for ships over 500GT.

Accordingly, the current or past compliance with such reporting obligations is a factual element that can be taken into account by a competent authority when assessing whether there is a reasonable cause to suspect a breach of Articles 3eb and 3ec. The competent authorities can also check a vessel's history of compliance, for instance with paragraph 2 of Article 3eb.

4. ROAD TRANSPORT

RELATED PROVISION: ARTICLE 3l OF COUNCIL REGULATION 833/2014

1. **What criteria should be applied by the competent authorities of a Member State to determine that the transport of goods by a road transport undertaking established in Russia or Belarus is necessary and, therefore, shall be authorized? Who should bear the burden of justification the necessity (Russian or Belarussian carrier, consignor, consignee, etc.)?**
   Last update: 8 June 2022

Article 3l of Council Regulation 833/2014 does not specify the procedures and conditions for its practical application, but allows Member States' national competent authorities (NCAs) to decide what is most appropriate in a given case. For instance, it will be for the NCA to determine the necessity of a transport of permitted goods based on the justifications received for that transport, the nature of the goods, their use etc. Being a derogation from the general rule, the possibility to grant authorisations should be appreciated restrictively.

However, the demonstration of the necessity of a road transport should be possible even where the transport of goods by a road transport undertaking established in Russia or Belarus is not the only way in which the transport can occur. All necessary information can and should be requested from the applicant for an authorisation.

It is for the transporter to be authorised to carry out the transport in the EU territory, because the prohibition is placed on road transport undertakings. However, NCAs are free to accept authorisation requests made on behalf of the transporter by other persons and entities involved in the relevant transaction, such as the importer or the consignor, if national law allows that.

2. **Should an authorization be granted to a single shipment, to a transport company or, more generally, to specific transport operations?**
   Last update: 8 June 2022

National competent authorities need to ensure that each authorised transport fulfils the derogation conditions laid down in Article 3l of Council Regulation 833/2014. This means that each transport should be authorised individually. However, if national law allows, and if the national competent authority is sure that a given series of transports will be identical, or are part of the same transaction concerning the same authorised goods (for instance, several shipments of the same items), they can also issue a broader authorisation under the conditions they deem appropriate.

Authorisations granted under Article 3l, paragraph 4(a) of Council Regulation 833/2014 concerning transport into the Union of natural gas and oil including refined petroleum products, as well as titanium, aluminium, copper, nickel, palladium and iron ore refer explicitly to the purchase, import or transport into the Union. Accordingly, this cannot cover any exports to Russia or Belarus.

Authorisations granted under Article 3l, paragraph 4(b) of Council Regulation 833/2014 concerning transport of pharmaceutical, medical, agricultural and food products allows for the import, purchase and transport into the Union or to a third country including Russia or Belarus.

3. **Which Member State needs to grant the authorisation?**
   Last update: 24 June 2022

Under Article 3l of Council Regulation 833/2014, the national competent authorities of the Member State through which the goods are transported should grant the authorisation. This authorisation does not, in and of itself, bind any other Member State.

However, by virtue of the principle of sincere cooperation, Member States should collaborate to avoid disproportionate administrative burdens in dealing with transports crossing several national territories. Nothing prevents Member States from recognising each other's authorisation decisions, or proactively reaching out to the NCAs of the transit Member States when granting such an authorisation. For instance, when goods are loaded in a Member State, it will likely be for that Member State to grant the first authorisation for the transport by the Russian or Belarussian road carrier. The Member State having granted the authorisation should notify all other Member States where the authorised transport needs to transit.

The notification between Member States can take place through any mean agreed by the concerned Member States.

The Member States should report any authorisation granted within two weeks of the authorisation by saving them in the FSOR. Given that users' notification is not automatically ensured by FSOR, member states can still notify the authorisation granted by sending it to the functional email address road_transport_sanctions@ec.europa.eu. To streamline reporting, member states are invited to share the same content via both FSOR and the above-mentioned functional mail address.

4. **How should Member States' authorities treat road transport companies established in Russia and Belarus after 16 April 2022?**
   Last update: 14 April 2022

With regard to Russian or Belarussian transporters which are still in the EU territory after the

grace period provided for in Article 3l of Council Regulation 833/2014, please note first that this provision forbids those carriers to transport goods by road within the Union. An unloaded Russian or Belorussian truck is not forbidden from circulating in the Union, but would fall under the scope of the prohibition if it loads cargo at any time. Please also note that Article 12 of the Regulation provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

Accordingly, after 16 April, Russian or Belorussian vehicles with cargo should not be allowed to circulate within the territory of the Union. The wind-down period of 7 days was included to give such vehicles a reasonable amount of time to leave the territory of the Union. Infringements should be addressed at the location they are detected. The prohibition does not require Member States to detain Russian or Belorussian vehicles which are unloaded. Regarding cargo, NCAs should take the measures they consider necessary in light of the situation and as permissible under their national law, with respect to the principle of proportionality.

5. **How should Member States' authorities treat road transport companies established in Russia after 16 April 2022 when these carry out goods transit between mainland Russia and the Kaliningrad region?**
   Last update: 13 July 2022

Under Article 3l of the Regulation, road transport undertakings established in Russia are prohibited to transport goods by road within the territory of the Union, including in transit. However, this ban does not apply to the transport of goods in transit through the Union between the Kaliningrad Oblast and Russia, provided that the transport of such goods is not otherwise prohibited under the Regulation. Transit of sanctioned goods by road is therefore not allowed.

It falls on Member States to take the appropriate steps to prevent all possible forms of circumvention through the enclave of Kaliningrad.

Member States should continue monitoring the two-way trade flows between mainland Russia and this region, in particular by checking whether transit volumes increases significantly over time. They should carry out targeted, proportionate and effective controls and other measures deemed necessary.

6. **Are Russian and Belarussian road transport operators prohibited from transporting people and their personal belongings (e.g. tourists, journalists, diplomats) or does the prohibition only cover freight transport?**
   Last update: 14 April 2022

Only the transport of goods by road is targeted by Article 3l of Council Regulation 833/2014. However, attention must be paid to avoid that Russian and Belarussian road transporters circumvent the prohibition by transporting passengers as a cover for freight.

7. **What is the impact for EU road transport operators operating within Russia and Belarus?**
   Last update: 8 June 2022

This measure only targets road transport undertakings established in Russia or Belarus. Therefore, EU road transport operators are not concerned.

8. **Does the diplomatic exemption in Article 3l(4)(d) cover third-country embassies?**
   Last update: 8 June 2022

Yes, this exemption does cover third-country embassies since 4 June 2022 (see Council Regulation (EU) 2022/879).

9. **What is the scope of the exception for mail set out in Article 3l(2)(a)?"**
   Last update: 8 June 2022

The exception in Article 3l 2(a) allows postal items that are part of the universal service and originating in Russia to continue to be transported from Russia to a Member State in the EU (to the international office of exchange of the destination Member State) or for mail to cross the EU when transported to or from a third country. This concerns Russian domestic and international standard letters and parcels, as well as periodicals.

This exception does not apply to postal items containing goods which are otherwise prohibited to transport. Also, it only applies to postal items collected by the Russian Post, which is the designated postal universal service provider in the Russian Federation. In case the Russian Post uses other road transport undertakings to transport postal items to/through the EU, the exemption would only apply to the postal items transported by these undertakings and not to other goods they may carry.

10. **Why did the 11th package introduce an extension of the road transport prohibition in a new paragraph 1a?**
    Last update: 30 June 2023

The extension of the road transport prohibition in Article 3l aims at countering circumvention of sanctions by companies using trailers and semi-trailers registered in Russia but hauled by trucks that are themselves not necessarily registered in Russia. Indeed, the transport of sanctioned goods by road transport companies not registered in Russia have been observed in the EU and was so far not concerned by the prohibition in paragraph 1. The new paragraph 1a intends to fill in that gap, tackling the cases where the goods are transported by companies using trailers and semi-trailers registered in Russia.

11. In paragraph 1a, what does “other countries” refer to?

Last update: 30 June 2023

Paragraph 1a prohibits the transport of goods within the Union by road transport companies, carried out by means of trailers or semi-trailers registered in Russia, including if those are hauled by trucks registered in “other countries”. This latest refers to any country that is not Russia, whether it is a Member State or a third country.

5. STATE-OWNED ENTERPRISES

RELATED PROVISION: ARTICLE 5aa OF COUNCIL REGULATION 833/2014

1. What is prohibited under Article 5aa?

Last update: 11 May 2022

This provision prohibits the conclusion of new contracts after 16 March 2022 with the legal persons contained in the Annex. The prohibition also applies to the execution of existing ones after 15 May 2022 or to the provision of any sort of economically valuable benefit (such as services or payments), even in the absence of such contractual relationship. The article does not prescribe the consequences that the prohibition should have on any ongoing contractual relations; an EU operator should take the measures necessary in light of its specific situation to halt its dealings by the end of the wind-down period on 15 May 2022.

2. What does "acting on behalf or at the direction of" mean?

Last update: 23 October 2023

Article 5aa(1)(c) prohibits to directly or indirectly engage in any transaction with a legal person, entity or body 'acting on behalf or at the direction of' an entity referred to in point (a) or (b) of this Article 5aa(1). Article 5aa(1)(c) seeks to address situations where an entity in Annex XIX attempts to circumvent the application of EU sanctions, for instance by changing the formal ownership of a company to side-step the application of Article 5aa (1)(b).

Guidance has been provided by the Commission to support such determinations, such as the criteria listed in the Commission opinion dated 17 October 2019. It addresses this notion of 'acting on behalf or at the direction' and notably this excerpt: "Ownership or control of the [targeted person/entity over the other entity] is an element that can be considered […] to increase the likelihood of [acting on behalf or at the direction of the targeted person/entity], but cannot suffice in determining whether the conduct did occur. In the absence of a definition and/or criteria that can be used to assess whether an entity acted on behalf or at the direction of a targeted entity, the NCA should take into account all the relevant circumstances in order to establish the situation at hand. These can include, for example, the precise ownership/control structure, including links between natural persons; the nature and purpose of the transaction, coupled with the stated business duties of the entity that is owned or controlled; previous instances of acting on behalf or at the direction of the targeted entity; disclosure made by third parties and/or factual evidence indicating that directions were given by the targeted entity".

For instance, a company previously falling under the scope of Article 5aa(1)(b) is likely to be 'acting on behalf or at the direction of' an entity in Annex XIX (Article 5aa(1)(c)) if the

ownership structure of the company is modified to reduce the shareholding owned by the entity in Annex XIX to 50% or below according to the ownership designation criterion, in particular where the share transfer is operated within the same corporate group and/or the transfer occurs close to the date of inclusion into Annex XIX of the relevant entity or of the issuance of guidance clarifying the implementation of the measure and/or if any material influence over the relevant entity is maintained (e.g. veto rights or any other influence over the management of the entity). In such a situation, there are reasonable grounds to suspect that the share transfer has been put in place in bad faith to camouflage the effective ownership or control and to circumvent the applicability of Article 5aa.

Based on such a determination, the prohibition requires that any provision of an economically valuable benefit in favour of the entity 'acting on behalf or at the direction of' be terminated. Where the termination of transactions with such an entity could affect the security of supply, operators should allow for a sufficient wind-down period (e.g. 60 days) to avoid unintended consequences before halting ongoing operations.

3. **Regarding the scope of the exception provided in Article 5aa(2) of Council Regulation (EU) 833/2014, in the context of a credit agreement, do we understand correctly that "execution" means that the credit line can be drawn until 15 May 2022, with the subsequent repayment after such date? Or both also the repayment has to happen before 15 May 2022?**
   Last update: 16 June 2022

The intention of Article 5aa is to prohibit all dealings with the legal persons listed in the Annex. In this regards, repayments in the context of a credit agreement are covered by this transaction ban since they amount to the execution of a contract and should have been finalised by 15 May 2022.

However, since 3 June 2022, in accordance with Council Regulation (EU) 2022/879, the reception of payments due by the legal persons, entities or bodies referred to in paragraph 1 pursuant to contracts performed before 15 May 2022 is allowed under paragraph 2a.

4. **Does Article 5aa(3)(c) of Regulation 833/2014 permit the purchase of Annex XXI coal products from an entity listed in Annex XIX, in circumstances where the contract is entered into after 9 April 2022?**
   Last update: 30 June 2023

Article 5aa(3)(c) should be read in conjunction with former Article 3j, in particular the wind-down period provided for in paragraph 3. Accordingly, transactions falling under the scope of

Article 5aa(3)(c) were possible until 10th August 2022 only for contracts concluded before 9 April 2022.

As explained in recital 51 of Council Regulation (EU) 2023/1214 ("11th sanctions package"), which entered into force on 24 June 2023, Article 3j and Annex XXII were deleted because the prohibition concerning coal imports is covered by Article 3i and Annex XXI of Regulation (EU) No 833/2014.

5. **Does the prohibition under Article 5aa extend to the provision of legal services to entities listed in Annex XIX?**
   Last update: 16 June 2022

With regards to the provision of the related legal services, Article 5aa should be interpreted in light of the fundamental rights protected under the Charter, in particular the right of defence. This provision does not affect the provision of services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy as referred in Article 47 of the EU Charter of Fundamental Rights and Article 6 of the European Convention on Human Rights.

6. **Does an EU operator engage indirectly with an entity targeted by Article 5aa if it provides insurance coverage to a vessel calling into a port owned by this entity?**
   Last update: 25 March 2024

The provision of insurance coverage for a vessel calling into a port owned by an entity listed in Annex XIX is not prohibited under Article 5aa as the provision of insurance to this vessel is not a direct or indirect transaction with the entity.

However, should the insured damage materialise, an EU insurer would only be allowed to make a direct payment to the port or reimburse liabilities for damages occurring in such a port if the latter is owned by an entity targeted by Article 5aa and listed in Annex XIX if the purpose of the entry into the port of the vessel was the transport of goods as provided in an exemption under paragraphs 3(a),(aa) and (f) which relate to the purchase, import, transport of certain goods.

6a. Can an EU insurer provide and pay out an insurance claim for a damage that has occurred in a port owned by an entity in Annex XIX?
Last update: 25 March 2024

Under the exemptions in Article 5aa, paragraphs 3(a), (aa) and (f) which allows certain transactions, including the transport of certain goods, EU insurers can provide coverage to vessels calling a port owned by an entity in Annex XIX.

Where the insured damage materialises, the payment of a claim directly to the port or the reimbursement of liabilities to the policyholder is lawful provided the necessary due diligence was carried out to ascertain that the damage occurred for the transport of the products referred to

under paragraphs 3(a), (aa) and (f) and under the conditions described in the Article. For further information on the Oil Price Cap, please refer to the dedicated FAQs.

7. **The Russian Maritime Registry of Shipping was already subject to EU sanctions, what is the difference with the current measure?**
   Last update: 10 November 2022

On 9 March 2022, the Russian Maritime Registry of Shipping ('RMRS') was added to the list of entities subject to financing limitations via loans, transferable securities and money market instruments (Article 5, paragraph 4, Council Regulation 833/2014).

On 7 October 2022, the Council decided to subject this entity to a transaction ban under Article 5aa of Council Regulation 833/2014. This measure prohibits the carrying out of any transaction, including for the provision of any sort of economically valuable benefit to the Russian Maritime Registry of Shipping. Such transactions cannot, for instance, be carried out by any EU vessel or any company incorporated or constituted under the law of a Member State, irrespective of where it is located. This prohibition also applies within the territory of the Union and where business is done in whole or in part within the Union (per Article 13 of Council Regulation 833/2014). EU sanctions do not apply extra-territorially, hence Article 5aa does not prohibit foreign operators, including non-EU vessels, from transacting with RMRS outside of the EU *e.g.* receive certification.

8. **Can a non-EU vessel with RMRS certification enter EU territorial waters?**
   Last update: 10 November 2022

Yes. EU sanctions do not prohibit the recognition of an RMRS certificate required to enter EU territorial waters. From 8 April 2023, all vessels with an RMRS certification will be prohibited access to EU ports (see FAQs relating to the port access ban provision, Article 3ea of Council Regulation 833/2014). However, the access to ports of such vessels remains allowed, subject to an authorization by the national competent authorities, for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers.

9. **Can the Russian Maritime Registry for Shipping still act as an EU 'Recognised Organisation'?**
   Last update: 18 October 2022

The EU has withdrawn the recognition of the Russian Maritime Register of Shipping to act as a recognised ship inspection and survey organisation[42] in the EU (so-called 'Recognised Organisation') **with immediate effect[43]**. This means that an EU flag State can no longer enter into, or renew, any authorisations with RMRS nor delegate any work to it. Likewise, the Member

[42] Classification Society/Recognised Organisation is a technical body that can be authorised via a delegation agreement, to carry out certain technical work on vessels on behalf of the flag State and may also be authorised to issue the relevant statutory certificates to economic operators on behalf of the flag State.

[43] Article 5aa, paragraph 4, of Council Regulation 833/2014 and Article 1ab, paragraph 3, of Council Decision 2014/512/CFSP.

States cannot delegate any verification in the ship security field or any safety inspection for the inland waterways purposes.

10. What does the placing of the Russian Maritime Registry for Shipping in Annex XIX imply for Member States' obligations?
Last update: 18 October 2022

It is necessary for Member States that still have any delegations with this entity to withdraw these for the measure to take full effect. Accordingly, Article 1ab, paragraphs 1, 4, and 5 of Council Decision 2014/512/CFSP sets out a timeframe for the Member States to arrange for an orderly wind-down of such authorisations.

Any EU Member State as flag State having delegated any work to the Russian Maritime Register of Shipping for **maritime safety related work on ships** must withdraw those authorisations before 5 January 2023 (Article 1ab, paragraph 1).

The same wind-down period and end date, 5 January 2023, applies for any authorisation by any EU flag State to RMRS to act as a 'Recognised Security Organisation' (Article 1ab, paragraph 4).

The wind-down period for any authorisations to RMRS to perform any work on Inland Waterway ships is earlier and should be done before 6 November 2022 (Article 1ab, paragraph 5).

Until such authorisations have been withdrawn, Member States shall not allow, or grant a delegation to, the Russian Maritime Register of Shipping to perform any of the tasks which, in accordance with Union rules on maritime safety, are reserved to organisations recognised by the Union, including to undertake inspections and surveys related to statutory certificates as well as to issue, endorse or renew the related certificates.

11. When will statutory certificates issued by the Russian Maritime Registry of Shipping to economic operators be invalidated?
Last update: 18 October 2022

Statutory certificates issued on behalf of a Member State by RMRS to any EU flagged ships or inland waterway vessels before 7 October 2022 will expire on the date indicated on the certificate without possibility of renewal, if not withdrawn before that date by the national competent authorities. They will in any case cease to be valid by the 8 April 2023 at the latest (Article 1ab, paragraphs 2 and 6 of Council Decision 2014/512/CFSP).

This applies with regards to maritime safety[44], maritime security[45] and for inland navigation[46].

[44] Russian Maritime Registry of Shipping acting as an EU 'Recognised Organisation' per Directive 2009/15/EC

[45] Russian Maritime Registry of Shipping acting as an EU 'Recongised Secuirty Organisation' per Regulation (EC) No 725/2004 or Directive 2005/65/EC

[46] Russian Maritime Registry of Shipping acting as an EU 'Recognised Organisation' per Directive (EU) 2016/1629

EU flagged vessels still having RMRS certification can remain under the same EU flag, and can have new certificates issued on their behalf by another EU 'Recognised Organisation' after a transfer of class, or by the flag State itself.

12. **Can a currently EU recognised organisation work with RMRS for the purpose of transfer of class?**
    Last update: 18 October 2022

Yes. EU recognised organisations that have been delegated to undertake the inspection and certification of ships classed or certified for statutory purposes until now by RMRS could continue working with RMRS for the purposes of transfer of class until 8 April 2023.

13. **Does Article 5aa prohibit transactions with the Russian Maritime Register of Shipping for the transport of agricultural and food products?**
    Last update: 8 March 2023

No. The transaction ban contains an exemption for transactions necessary for the purchase, import or transport of agricultural and food products, including wheat and fertilisers whose import, purchase and transport is allowed under Council Regulation (EU) 833/2014.

Accordingly, under this exemption, EU operators such as EU insurance providers can provide the services to RMRS, directly or indirectly, if they are necessary for the purchase, import or transport of such products without having to request an authorisation to a Member State.

EU sanctions do not apply extra-territorially, hence Article 5aa does not prohibit operators that are not established under the jurisdiction of an EU Member State, including non-EU vessels, from transacting with RMRS outside of the EU, for purchase, import or transport in the aforesaid products.

14. **Does Article 5aa prohibit transactions with a company that is minority owned by an entity listed in Annex XIX?**
    Last update: 30 June 2023

Article 5aa does not apply to companies in which an entity or entities listed in Annex XIX owns a minority shareholding (meaning that proprietary rights are directly or indirectly owned for less than 50 % by an entity listed in Annex XIX), except if such a company is found to be acting on the behalf or at the direction of an entity listed in Annex XIX (Article 5aa paragraph 1(c)).

Accordingly, it is necessary to assess, on a case-by-case basis, whether such a minority owned company is owned directly or indirectly for more than 50% or is acting on behalf of or at the direction of the entity listed in Annex XIX. Please refer to FAQ 2 for more information regarding this assessment.

Moreover, the fact that an entity listed in Annex XIX holds a minority ownership interest in a company, even where such a company carries out a project located in Russia, does not mean that an EU operator would automatically 'directly or indirectly engage in transactions' with a person listed in Annex XIX or with an entity acting on behalf or at the direction of that entity. In such a scenario, it is required to make a case-by-case assessment for each transaction.

15. **Are maintenance and repair services considered strictly necessary for the purposes of Article 5aa paragraph 3(aa)?**
Last update: 30 June 2023

Unless prohibited under Article 3m or 3n as well as Article 3f, it is possible to provide or receive maintenance and repairs services to vessels transporting natural gas, oil, or refined petroleum products from or through Russia required for concerns of maritime safety. Other services, such as tug services can also be provided.

16. **Sovcomflot is subject to the transaction ban in Article 5aa of Council Regulation (EU) 833/2014. Since 24 June 2024, Sovcomflot is also subject to an asset freeze and a prohibition to provide funds or economic resources to it, under Council Regulation (EU) 269/2014. Under the transaction ban in Article 5aa of Council Regulation (EU) 833/2014, Sovcomflot benefits from the exemptions in paragraph 3 of that article. Can Sovcomflot benefit from such exemptions after its listing in Council Regulation (EU) 269/2014 on 24 June 2024?**
Last update: 2 July 2024

As stated in *FAQs 18 and 19 on General Questions*, the prohibitions set out in Council Regulation (EU) 269/2014 and 833/2014 apply independently. If a specific action is prohibited under Council Regulation (EU) 269/2014, an exception in Council Regulation (EU) 833/2014 cannot be relied upon to exempt an operator from the prohibition in Council Regulation (EU) 269/2014.

The asset freeze and prohibition to provide funds or economic resources provided for in Council Regulation (EU) 269/2014 apply in full to Sovcomflot, subject only to possible exceptions contained in Council Regulation (EU) 269/2014. The exceptions in Council Regulation (EU) 269/2014 can only be relied upon in as far as they do not conflict with the prohibition laid down in Article 5aa of Council Regulation (EU) 833/2014. Any exceptions in Council Regulation (EU) 833/2014 are irrelevant for the asset freeze measures.

Accordingly, it is prohibited for EU operators to provide any funds or economic resources to Sovcomflot. It is also prohibited to provide any funds or economic resources to vessels owned by Sovcomflot as it can be presumed that any funds or economic resources made available to those vessels would reach or benefit Sovcomflot. *See FAQs on Assets freeze and prohibition to provide funds or economic resources.*

The provision of funds or economic resources to vessels owned by Sovcomflot is prohibited irrespective of whether the oil transported by such vessels was purchased at or below the Oil Price Cap. The exemption set out in Article 5aa of Council Regulation (EU) 833/2014 (Article 5aa(3)(aa)) cannot apply.

6. PUBLIC PROCUREMENT

RELATED PROVISION: ARTICLE 5k OF COUNCIL REGULATION 833/2014

1. What is the purpose of these Questions and Answers?
Last update: 12 May 2022

The adopted sanctions against Russia are unprecedented, have broad consequences and take immediate effect. These Q&A aim at supporting EU public buyers in their implementation, by explaining their logic and advising on application. However, the Q&A themselves are not legally binding and do not replace the relevant legal provisions.

2. What is the scope of the sanctions?
Last update: 12 May 2022

The sanctions cover ongoing and future public procurement procedures, as well as awarded public contracts and concessions.

They apply to a majority of public procurement contracts covered by the EU public procurement Directives (Directive 2014/23/EU[47]; 2014/24/EU[48]; 2014/25/EU[49]; 2009/81/EC[50]) and to a big part of the contracts excluded from their scope.

3. From when are the sanctions applicable?
Last update: 12 May 2022

The sanctions are applicable from 9 April 2022. From this day, new contracts falling under the prohibition should not be signed and starts the period for termination of existing contracts falling under the prohibition (except for coal contracts falling under the prohibition which should be terminated immediately if execution for further 4 months was not authorised under Article 5k(2)(f) of the Sanctions Regulation).

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[47] Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1.

[48] Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28.3.2014, p. 65.

[49] Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243.

[50] Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, OJ L 216 20.8.2009, p. 76.

4. **When shall the sanctioned contracts be terminated?**
   Last update: 12 May 2022

Ongoing contracts shall be terminated by 10 October 2022, except for specific cases authorised in accordance with paragraph 2 of article 5k. Alternatively to termination, contracts can be suspended, as explained in reply to question 28.

5. **What contracts do the sanctions prohibit?**
   Last update: 12 May 2022

The sanctions prohibit contracts with:

- Russian nationals, companies, entities or bodies established in Russia as well as companies and entities directly or indirectly owned for more than 50% by them and persons bidding or implementing a contract on their behalf
- any person, regardless of their place of establishment or nationality, who implements or intends to implement a contract using Russian or Russian owned subcontractors, suppliers or capacity providers for participation above 10% of the contract value

See points (a)-(c) of article 5k(1) of the Sanctions Regulation for the exact formulation.

6. **What procurement excluded from the Directives is covered by the sanctions?**
   Last update: 2 June 2022

Additionally to the scope of the Directives, the sanctions cover also procurement concerning:

- concessions awarded to public buyers on the basis of exclusive right(s)
- concessions to holders of exclusive rights
- concessions for air and passenger transport
- concessions implemented outside the EU
- water concessions
- concessions awarded to affiliated undertakings and joint ventures
- concessions related to real estate transactions
- radio and audio-visual production and broadcasting, electronic communication services
- arbitration, conciliation and legal services
- financial instruments, loans and some central banks services
- some civil protection services provided by NGOs
- political campaigns
- lotteries
- passenger transport services
- purchases connected with classified information due the country's essential national security interest, contracts for intelligence activities
- purchases for resale by entities active in the sectors of water, energy, transport and postal services

- contracts awarded to affiliated undertakings and joint ventures by entities active in the sectors of water, energy, transport and postal services
- posts' financial, philatelist, logistic services and services by electronic means,
- government to government defence and security contracts and concessions
- defence and security contracts and concessions related with cooperative programmes
- defence contracts and concessions for military force deployed outside of the EU
- defence and security research and development contracts for the contracting authority

See the listing of the Directives' exclusion articles in article 5k(1) of the Sanctions Regulation for the exact formulation.

7. What procurement is not covered by the sanctions?

Last update: 12 May 2022

Public procurement not covered by the sanctions is:

- procurement not covered by the Directives and not specifically included in the sanctions (see for an illustrative list of specifically included procurement the question above)
- all procurement below the Directives' thresholds

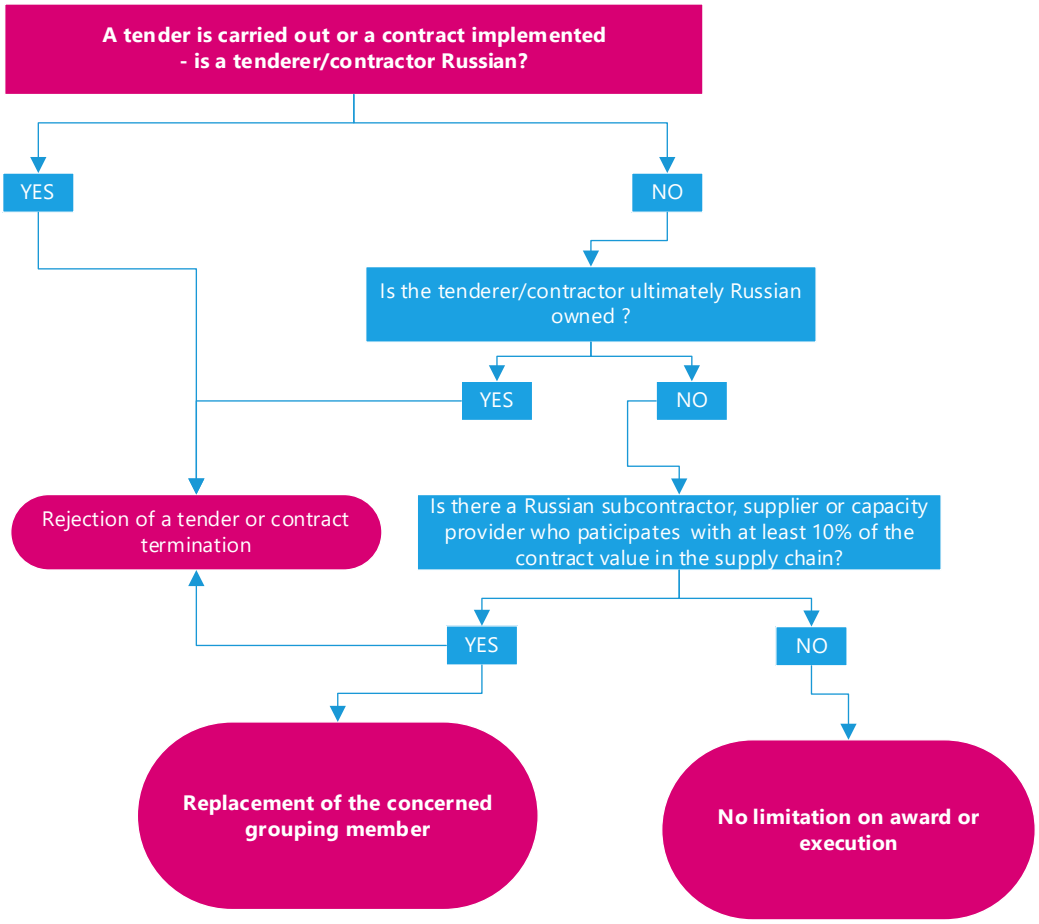
Additionally, the competent national authority may authorise the award and continued execution of contracts related to:

- the continuation of nuclear energy projects, radioisotopes precursors for medical application, radiation monitoring and civil nuclear cooperation
- intergovernmental cooperation in space programmes
- strictly necessary goods and services which cannot be purchased in sufficient quantity elsewhere
- the functioning of diplomatic representations
- natural gas and oil, including refined petroleum products, as well as titanium, aluminium, copper, nickel, palladium, iron ore and coal until 10 August 2022

See article 5k(1) and (2) of the Sanctions Regulation for the exact formulation.

8. **What is the general logic of the public procurement sanctions?**
Last update: 12 May 2022

Overall, the logic of the public procurement sanctions is:



9. **Do the public procurement sanctions cover particular sectors?**
Last update: 12 May 2022

No, as a principle the sanctions cover all sectors covered by the Directives and additional areas as specified in question 5. Other specific areas excluded from the EU public procurement legislation are also not covered by the sanctions.

10. **Which public buyers are concerned by the sanctions?**
Last update: 12 May 2022

All EU Member States public buyers are bound by the sanctions.

11. What should they do concerning ongoing contracts? and new contracts?

Last update: 26 January 2024

Ongoing contracts covered by the sanctions cannot be further implemented. Thus, they have to be terminated. In this regard:

- All public buyers should verify whether they have concluded any public contract above the EU public procurement thresholds.
- For these contracts public buyers should:
  - consider the possibility of Russian involvement in the sense of Article 5k(1)
  - check if the scope of contracts with Russian involvement is in principle covered by the sanctions (probably they are)
- In order to ensure that there is no Russian involvement in the contract, the public buyer may request a statement by the contractor along the following lines:

  I declare under honour that there is no Russian involvement in the contract of the company I represent exceeding the limits set in Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

  In particular I declare that:

  (a) the contractor I represent (and none of the companies which are members of our consortium) is not a Russian national, or a natural or legal person, entity or body established in Russia;

  (b) the contractor I represent (and none of the companies which are members of our consortium) is not a legal person, entity or body whose proprietary rights are directly or indirectly owned for more than 50 % by an entity referred to in point (a) of this paragraph;

  (c) neither I nor the company represent is a natural or legal person, entity or body act on behalf or at the direction of an entity referred to in point (a) or (b) above,

  (d) there is no participation of over 10 % of the contract value of subcontractors, suppliers or entities whose capacities the contractor I represent relies on by entities listed in points (a) to (c).

- Given the individual financial sanctions also in place, the public buyer may add to the above statement by the contractor the following lines:

  (e) the contractor I represent (and the companies which are members of our consortium or any of their subcontractors) is not a target of EU

sanctions, such as those against the persons listed in Annex I to Council Regulation (EU) No 269/2014[51], nor is owned or controlled by listed persons. The criterion to be taken into account when assessing whether a legal person or entity is owned by another person or entity is the possession of more than 50% of the proprietary rights of an entity or having majority interest in it[52].

- In case of any doubts, public buyers should request additional information, explanation or documents or conduct additional verifications to ensure the veracity of the statement and information provided by the contractor, such as by checking for adverse (negative) media coverage, and investigating corporate structures e.g. via beneficial ownership registers.

12. What should public buyers do in regard of future contracts?
Last update: 12 May 2022

All public buyers are strongly advised to request a declaration as above with the tender documentation. They may find it appropriate to ask tenderers for detailed information or documentation on their final beneficial ownership (all consortium members in case of consortia) and possibly, also subcontractors, suppliers and entities relied on.

The above information may also be requested at a later stage, respecting the principle of equal treatment of tenderers and giving them a reasonable time for reaction.

Public buyers may request additional information in case of reasonable doubts concerning the information received.

13. If a contract is terminated due to these sanctions, can a new one be awarded on the basis of a negotiated procedure without publication?
Last update: 12 May 2022

Ongoing contracts can in principle be still implemented until 10 October 2022. Thus contracting authorities should be able to award a new contract to replace the old one until then, if needed. There could be specific situations, e.g. in case of contracts requiring a particularly long preparation and tendering procedure, where this is not possible.

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[51] The consolidated list of persons subject to EU financial sanctions can be found here: https://data.europa.eu/data/datasets/consolidated-list-of-persons-groups-and-entities-subject-to-eu-financial-sanctions?locale=en

[52] see EU Best Practices for the effective implementation of restrictive measures, in particular points 62 and 63: https://data.consilium.europa.eu/doc/document/ST-10572-2022-INIT/en/pdf

Every contract award on the basis of a negotiated procedure without prior publication of a contract notice needs to be justified on an individual basis. Termination of a contract due to the sanctions can be considered an unforeseeable event. It should, however, be analysed whether a new contact is necessary and whether its conclusion is extremely urgent. In view of the transition period for terminating contracts, this cannot be presumed. The award of a new contract within the transition period should in general be possible, either by using a normal, or an accelerated procedure.

For details on emergency procedures the Commission's Communications on procurement in Covid-19 crisis situation[53] and the asylum crisis situation[54] can be consulted.

14. What if a public buyer signed a prohibited contract after the date of application of the sanctions?

Last update: 12 May 2022

Although such a contract should not have been concluded in the first place, it is valid until terminated or declared invalid by a court decision. Thus, when mistakenly concluded, it should be terminated as soon as possible.

Is shall be noted that formally this constitutes a violation of the Sanctions Regulation and should be subject to prosecution and penalties.

15. Can a public buyer still purchase Russian energy or gas?

Last update: 12 May 2022

Yes, it is still possible to purchase it from Russia, although in some cases it may require an authorisation by the competent national authorities.

Purchases of energy and fuel for production of energy by entities providing gas, heat and electricity to the public are not covered by the sanctions (exceptions from the Directive 2014/25/EU, in its article 23(b), not included in the sanctions Regulation).

Purchase of gas is also in general exempted (Article 5k(2) lit. e), upon authorisation. As explained in the reply to question 9, all public buyers should analyse if their contracts are subjected to sanctions. Thus, if a public buyer purchasing gas for itself discovers or learns from its contractor that it comes from Russian entities (including subcontractors or suppliers), it must seek an authorisation by the competent national authority to maintain the conditions of the current contract beyond 10 October 2022 (listed in Annex I to the Regulation 833/2014).

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[53] Communication from the Commission, Guidance from the European Commission on using the public procurement framework in the emergency situation related to the COVID-19 crisis, C/2020/2078; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.CI.2020.108.01.0001.01.ENG. See notably point 2.3 thereof.

[54] Communication from the Commission to the European Parliament and the Council on Public Procurement rules in connection with the current asylum crisis, COM/2015/0454 final; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0454. See notably Section 3.

16. **Does the 10% Russian subcontracting, supplying or capacity provision limit apply individually or cumulatively?**
    Last update: 12 May 2022

It applies individually to each subcontractor, supplier or capacity provider. Where more than one covered entity is involved, the value of their participation has to reach 10 % in at least one case for sanctions to apply.

17. **Does the 10% Russian subcontracting and supplying limit apply only to the first step or also further in the supply chain?**
    Last update: 12 May 2022

The terms "subcontractors" and "suppliers" include the whole supply chain and not only direct suppliers. Thus, contracts are covered even if the 10% of Russian subcontracting or supplying is provided through intermediary entities.

18. **How does the 10% Russian subcontracting and supplying limit apply if the subcontractor or supplier is only partially owned by an entity covered by the sanctions?**
    Last update: 12 May 2022

If a subcontractor which accounts for over 10% of the contract value is owned for more than 50% by a Russian entity or national, it is a covered subcontractor.

19. **Does *subcontractors, suppliers or entities whose capacities are being relied on* mean only those that the buyer knows about?**
    Last update: 12 May 2022

No, it means any third parties involved for more than 10% of the contract value.

20. **Who is meant by *subcontractors, suppliers or entities whose capacities are being relied on*? What if these entities ultimately do not implement a contract at all?**
    Last update: 12 May 2022

These notions cover all entities that perform a part of the contract, i.e. provide services or works or deliver any kind of supply. They cover also any entity indicated in the tender offer, even if it finally does not implement any part of the contract in practice and its capacity is merely relied on for the purpose of fulfilling the selection criteria.

21. **Can subcontractors, suppliers or capacity providers be replaced?**
    Last update: 12 May 2022

Yes, the public buyer receiving a tender or having a contract involving sanctioned Russian participation should in accordance with the principle of non-discrimination and equal treatment require from the tenderer or contractor its replacement in line with article 63(2) and 71(6)(b) Directive 2014/24/EU, articles 79(1)-(2) and 88(6)(b) Directive 2014/25/EU, article 42(4)(b)

Directive 2014/23/EU and by analogy should offer the possibility of its replacement in case of Directive 2009/81/EC. A replacement proposed by a tenderer or contractor should be accepted if a proposed new subcontractor, supplier or capacity provider is not in an exclusion situation (including the current sanctions) and after the replacement the selection criteria remain fulfilled by the tenderer or contractor.

In case a replacement was not proposed by the contractor or tenderer, or where the replacement proposed was not acceptable, with account being taken also of the principles of non-discrimination and equal treatment, a tender should be rejected or a contract terminated.

22. Can a consortium member be replaced?
Last update: 12 May 2022

No, all the members of a consortium, a group of natural or legal persons or public entities, when they jointly submit an offer having joint and several responsibility for contract implementation, constitute together one economic operator and therefore they cannot be replaced.

23. Does the Russian ownership concern only the immediate owner or up to the ultimate beneficial owner?
Last update: 12 May 2022

The sanctions exclude any Russian ownership over 50%, up to the ultimate beneficial owner. If the Russian participation is partial, a proportion should be calculated and summarised as needed, even if the partial ownership comes from different ownership levels.

Thus, if a tenderer is owned by 30% by a Russian citizen and 70% by an EU company, which is owned by 40% by a Russian entity, the tenderer is owned for 58% by covered entities and should be excluded.

24. How is the owner's nationality proportion established in the case of companies listed on the stock market?
Last update: 12 May 2022

Any company involved in a public procurement procedure or contract, whether listed on a stock market or not, is obliged to provide detailed information on their owners, to the extent necessary to establish that it is not Russian owned over the forbidden limit.

25. Is requesting the information about ownership in line with the rules on the protection of personal data?
Last update: 12 May 2022

Information on ownership is necessary to implement the Sanctions Regulations. Therefore, public buyers are authorised to request it by Article 6 of the GDPR.[55] Nevertheless, all the rules

[55] Regulation (EU) 2016/679.

on the protection of personal data (GDPR)[56] still apply. Thus, the information shall be protected, not shared beyond the purpose for which it was obtained, and destroyed when it is not needed.

26. Can excluded tenderers claim violation of the principle of transparency?
Last update: 12 May 2022

No. The Sanctions Regulation is directly and immediately applicable from its entry into force and the fact that this exclusion was not listed in the procurement documents, or that it is not contained in the applicable Public Procurement Directive, is irrelevant.

27. Can contracts subject to sanctions still be awarded if their execution finishes before 10 October 2022?
Last update: 12 May 2022

No. Contracts covered by the sanctions cannot be awarded, even if the contract execution would finish before 10 October 2022.

28. Can a contract just be suspended and not terminated?
Last update: 12 May 2022

The Sanctions Regulation prohibits the execution of the contract. Therefore, a contract can be terminated or suspended indefinitely and unconditionally, in accordance with national law.

29. Shall the sanctioned companies be excluded from Dynamic Purchasing Systems list?
Last update: 12 May 2022

Since a Dynamic Purchasing System is not a contract, the participation of covered entities in the list should be considered as frozen and no invitations should be sent to them.

30. What does acting on behalf of or at the direction of covered entities mean?
Last update: 12 May 2022

This is an issue of factual assessment which needs to be made by the buyer. The Commission has provided guidance on how to assess this in its Commission opinion of 17 October 2019:

https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/191017-opinion-regulation-2014-833-article-5-1_en.pdf

"In the absence of a definition and/or criteria that can be used to assess whether an entity acted on behalf or at the direction of a targeted entity, the NCA should take into account all the relevant circumstances in order to establish the situation at hand. These can include, for example, the precise ownership/control structure, including links between natural persons; the nature and purpose of the transaction, coupled with the stated business duties of the entity that is owned or controlled; previous instances of acting on behalf or at the direction of the targeted

[56] Regulation (EU) 2016/679.

entity; disclosure made by third parties and/or factual evidence indicating that directions were given by the targeted entity."

31. How is the 50% ownership calculated in the case of consortia?
Last update: 12 May 2022

The limit is calculated individually. It applies to each consortium member. None of them can be Russian owned for over 50%.

32. Do the sanctions prohibit contracts with a Russian company or a Russian owner that itself is owned by a non-Russian company or individual?
Last update: 12 May 2022

The prohibition applies in respect of all companies established in Russia, independently of their ownership, as well as to companies that are directly or indirectly owned by a Russian national or company established in Russia for more than 50 %. This is regardless of whether these companies are owned by a company that is not established in Russia or in ownership of a Russian company or national.

Whether or not a Russian company is owned by a non-Russian company or individual is thus not relevant.

33. Are the contracts below the EU public procurement thresholds covered by the sanctions?
Last update: 12 May 2022

No, contracts below the EU public procurement thresholds are not covered by the sanctions. However, a contract shall not be artificially split into parts. In case a contract is artificially split with the aim of avoiding the threshold, it is to be considered as one contract and as such covered by the sanctions.

34. Are the decisions related to sanctions subject to review like other public procurement decisions?
Last update: 12 May 2022

Yes, the decisions of public buyers related to the Sanctions Regulation are subject to review as any other decision taken in regard of contracts falling within the scope of Directives 2014/23/EU, 2014/24/EU, 2014/25/EU and 2009/81/EC. Thus, a tenderer having or having had an interest in obtaining a particular contract and who has been harmed or risks being harmed by a decision of the public buyer allegedly contrary to the Sanctions Regulation, may lodge a complaint before the first instance public procurement review body.

The decisions on termination of an ongoing public contract based on the Sanctions Regulation are subject to review based on the national law, as any other aspect of implementation of the

public contracts. At the same time, no damages can be claimed for their termination as per Article 11 of the Sanctions Regulation.

35. **Can public buyers be held accountable for terminating ongoing contracts with sanctioned parties? What is the legal basis for excluding claims for damages?**
    Last update: 12 May 2022

Claims for damages are excluded by Article 11 of the Sanctions Regulation ("no claim clause"). According to this clause, Russian parties and those acting on their behalf cannot obtain compensation for damages resulting from the latter complying with the obligations under the Sanctions Regulation.

36. **Is a company established in Germany with a managing director of Russian nationality and German residence excluded from the award or the fulfilment of public contracts if the threshold value is reached?**
    Last update: 23 May 2022

No, it is not excluded on the basis of the Sanctions Regulation since the contract is signed with the company which is established in Germany and not with its managing director.

37. **How do provisions under Article 5k apply to a person with a dual nationality – Russian and another?**
    Last update: 26 August 2022

Article 5k applies to Russian citizens and does not provide for exceptions for dual citizenship. Thus, having Russian nationality is decisive and any other citizenship irrelevant.

38. **When shall a declaration of no Russian involvement be considered sufficient and when shall additional information be requested?**
    Last update: 26 August 2022

This is an issue of individual assessment of the contracting authority of each particular contract and tenderer, taking into account the size and importance of the contract, the nature of the contract and its particular market, the geographical location of the contract implementation, particular observations connected with the tenderer and its offer, and general information known to the buyer.

In any case, the information on Russian involvement should be requested on the whole ownership chain (up to the final beneficial owner) only where necessary. This would not be the case where it can be excluded that there is any individual indirect Russian participation above 10% of the contract value down the supply chain (all subcontractors and suppliers and their subcontractors and suppliers).

39. Can a competent national authority give a general authorisation for certain types of contracts?

Last update: 26 August 2022

The Sanctions Regulation empowers the competent national authorities to provide authorisations in certain cases provided for in Article 5k(2), and does not regulate the procedure or mechanism for granting those authorisations. Competent national authorities are therefore entitled to decide that the award of certain groups or types of contracts is authorised. Such a block authorisation may have the effect of releasing buyers from the need of analysing or checking situations within specific contracts, provided that they respect the conditions of those authorisations.

40. Can a competent national authority authorise the execution of already awarded contracts?

Last update: 26 August 2022

The authorisation of authorities by Article 5k(2) referred to under the preceding question covers both award of contracts and the continued execution thereof.

41. When shall a public buyer apply for authorisation?

Last update: 26 August 2022

Formally, there is no deadline for application. However, the authorisation should be requested as soon as possible to ensure that it is obtained on time before the award of a new contract or to have enough time for a new award procedure in case the authorisation is refused by the competent national authority.

42. Can contracts be terminated before 10 October 2022?

Last update: 26 August 2022

The Sanctions Regulation prohibits to execute contracts only from 10 October 2022. Thus, the Sanctions Regulation is not a legal basis to terminate them before.

In practice, the majority of contracts cannot be terminated from one day to the next. Therefore, the termination procedure should start sufficiently early to ensure that contracts are not executed beyond 10 October 2022.

While the Sanctions Regulation is a legal basis for termination of contracts, the procedure is subject to national law.

43. Do the sanctions apply to Russian nationals who have obtained refugee status (considering *inter alia* the Refugee Convention of 1951)?

Last update: 26 August 2022

Article 8 of the Refugee Convention of 1951[57] states that exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, shall not be applicable to a refugee who is formally a national of the said State, solely on account of such nationality.

Article 18 of the Charter of Fundamental Rights of the EU provides that 'the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees…'.

Therefore, in line with those provisions, Russian nationals having obtained refugee status in any of the EU Member States are not covered by the provisions of Article 5k of the Sanctions Regulation.

44. Do sanctions apply to supplies purchased earlier, be it stocked, multiple times resold or used?
Last update: 26 August 2022

Sanctions apply to the conclusion of public contracts after 9 April 2022 and to the execution of prior contracts as from 10 October 2022.

The sanctions do not apply to the subject-matter of the offer or contract (supplies), but to the Russian or Russian owned entities (contractor, subcontractor, supplier or capacity providers) involved in the implementation of the contract (for participation above 10% of the contract value) after 9 April 2022 for newly concluded contracts or as from 10 October 2022 for prior contracts.

Therefore, sanctions are not applicable in the case where the contractor, subcontractor, supplier or capacity providers involved in the implementation of the contract has before the submission of the offer or contract award and before 9 April 2022 purchased supplies (over 10 percent of the contract value) from a Russian or Russian-owned entity.

45. Shall subcontracting be checked all the way down the supply chain to ensure that there is no Russian involvement?
Last update: 26 August 2022

Russian involvement should be checked as long as there is a possibility of a subcontractor or supplier whose involvement exceeds 10% of the contract value, even far down the supply chain, e.g. energy or raw materials.

[57] https://www.unhcr.org/1951-refugee-convention.html

46. Do the sanctions cover lots worth less than 80.000€ (or 1 million € in case of works) and constituting less than 20% of the value of the procurement they are part of?
Last update: 26 August 2022

Yes, they do. Article 5(10) of Directive 2014/24/EU[58] allows to award such contracts without following the competitive procedure but that does not exclude them from the scope of the Directive. Therefore, being covered by the Directive, they are also covered by the Sanctions Regulation.

47. If an EU company has a permanent branch in Russia, is that EU company's branch covered by the Sanctions Regulation?
Last update: 26 August 2022

This depends on whether the branch fulfils the conditions or Art. 5 k (1). This has to be assessed case-by-case.

48. What is the relationship between Article 5k and Article 5aa?
Last update: 26 August 2022

Article 5aa refers mainly to entities owned by the Russian State but forbids transactions with them in general, not only within public procurement. Article 5k covers transactions by EU public entities with all Russian entities, including natural persons, in the context of public procurement. The two provisions thus have a different scope, which may overlap in individual cases.

49. What is the relationship between Article 5k of Council Regulation (EU) 833/2014 and Article 2 of Council Regulation 269/2014?
Last update: 26 January 2024

Both provisions must be complied with, hence their applicability must be checked in parallel. It suffices that one of both provisions applies for an action to be prohibited.

[58] Article 16(10) of Directive 2014/25/EU

7. HUMANITARIAN AID

RELATED PROVISION: COUNCIL REGULATION 833/2014

1. **Are humanitarian activities exempted from the sanctions? Can for instance food, medicines and medical devices be provided on this basis?**
   Last update: 7 February 2023

EU sanctions are targeted. They are aimed at those responsible for the policies or actions the EU wants to influence. This targeting intends to reduce as much as possible any adverse humanitarian effects or unintended consequences for persons that are not targeted by these measures, in particular the civilian population, or neighbouring countries. Any action not explicitly prohibited under EU sanctions is permitted. Humanitarian operators can seek guidance from their national competent authority (NCA).

Council Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine provides for the following specific exceptions for humanitarian purposes:

- Export restrictions[59] applicable to items covered by Annex I to the EU Dual-Use Regulation and to 'Advanced technology' items do not apply if intended for humanitarian needs, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment or as a response to natural disasters; nor for medical or pharmaceutical purposes. For further details, including notification obligations please refer to the Frequently Asked Questions on export-related restrictions pursuant to Articles 2, 2a and 2b of Council Regulation No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.
- Export restrictions applicable to items covered by Annex XXIII may be lifted following a derogation granted by the relevant national competent authority, after having determined that such items are necessary for humanitarian purposes. Please refer here to Article 3k of Council Regulation (EU) No 833/2014.
- The prohibition to provide public financing or financial assistance for trade with, or investment in, Russia do not apply for trade in food, and for agricultural, medical or humanitarian purposes. Please refer here to Article 2e of Council Regulation (EU) No 833/2014.
- The ban on the overflight of EU airspace and on access to EU airports by Russian carriers of all kinds may be lifted on humanitarian grounds, following a derogation

[59] Note that export restrictions also include prohibitions to provide financial and technical assistance, which can also benefit from humanitarian exemptions.

granted by the relevant national competent authority. Please refer here to Article 3d of Council Regulation (EU) No 833/2014.

- The export restrictions applicable to maritime navigation goods and radio communication technology do not apply if intended for humanitarian purposes, health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters. Please refer here to Article 3f of Council Regulation (EU) No 833/2014.
- The restrictions on the acceptance of deposits can be subject to exemptions following an authorisation by the NCA if necessary for humanitarian purposes, such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance, or for evacuations. Please refer here to Article 5d of Council Regulation (EU) No 833/2014.
- The ban on access to EU ports by Russian vessels can be subject to a derogation following an authorisation by the NCA if the access is necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products or required for humanitarian purposes. Please refer here to Article 3ea of Council Regulation (EU) No 833/2014.
- The prohibition for Russian transport undertaking to transport goods by road within the territory of the Union can be subject to a derogation following an authorisation by the NCA if the transport is necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, or humanitarian purposes. Please refer here to Article 3l of Council Regulation (EU) No 833/2014.
- The prohibition on the registration or the provision of a registered office, business or administrative address as well as management services to trusts or similar legal arrangements may also be lifted following a derogation granted by the relevant national competent authority, after having determined that the services are necessary for humanitarian purposes. Please refer here to Article 5m of Council Regulation (EU) No 833/2014.

Council Regulation (EU) 2022/625 of 13 April 2022 amending Council Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine provides for exemptions, for certain clearly defined categories of organisations and agencies, and derogations, concerning the freezing of assets of, and the restrictions on making funds and economic resources available to, designated persons, entities and bodies, when those actions are necessary for exclusively humanitarian purposes in Ukraine. Please refer here to Article 2a of Council Regulation (EU) No 269/2014.

Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine provides for exemptions, for certain clearly defined categories of bodies, persons, entities, organisations and agencies, and derogations to allow the provision of goods and technology indicted in Annex II, as well as certain restricted services and assistance related to such goods and technology, to persons, entities and bodies in the non-government controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine or for use in those areas, where necessary for humanitarian purposes. Similarly, the exemption and derogation allow for the provision of specific restricted services and assistance directly relating to certain infrastructure in the non-government-controlled areas of the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine, where necessary for humanitarian purposes. Please refer here to Article 4a and Article 5a of Council Regulation (EU) 2022/263. The legal act was amended by Council Regulation (EU) 2022/626 of 13 April 2022 and Council Regulation (EU) 2022/1903 of 6 October 2022, notably to also cover the non-government controlled areas of Kherson and Zaporizhzhia oblasts of Ukraine.

For further guidance on how to provide humanitarian aid in compliance with EU sanctions, please refer to the Commission Guidance note on the provision of humanitarian aid to fight the COVID-19 pandemic in certain environments subject to EU restrictive measures. Some of the principles captured in this Guidance Note, which covers EU sanctions vis-à-vis counter terrorism, Iran, Nicaragua, Syria and Venezuela, may apply by analogy to the above sanctions regimes, insofar as they concern horizontal aspects (e.g. application of Internal humanitarian law and non-vetting of final beneficiaries). Moreover, in 2021 the Commission has set up a sanctions-humanitarian contact point, that NGO and economic operators can address to request tailor-made support. The contact point can be reached at: EC-SANCTIONS-HUMANITARIAN-CONTACT-POINT@ec.europa.eu.

8. PROVISION OF SERVICES

RELATED PROVISION: ARTICLE 5n OF COUNCIL REGULATION 833/2014

1. **The EU has prohibited the provision of certain business-relevant services to the Russian government, as well as to legal persons such as companies and other entities or bodies established in Russia. What kind of services are prohibited?**
   Last update: 30 June 2022

As of 4 June 2022, it is prohibited to provide, directly or indirectly, accounting, auditing, including statutory audit, bookkeeping and tax consulting services, as well as business and management consulting or public relations services (Article 5n of Council Regulation 833/2014) to the Russian government, as well as to legal persons such as companies and other entities or bodies established in Russia.

The scope of the services prohibited should be interpreted with reference to Annex II to Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment[60].

- Accounting, auditing, bookkeeping and tax consultancy services cover the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting; and the preparation of tax documents.
- Business and management consulting and public relations services cover advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organisation. Management fees, management auditing; market management, human resources, production management and project management consulting; and advisory, guidance and operational services related to improving the image of the clients and their relations with the general public and other institutions are all included.

The provision in Article 5n has been amended since its introduction in June 2022. Please find in Annex A an outline of the applicable prohibitions on the provision of services, as well as of the relevant wind-down periods, exemptions and derogations.

2. **Do public relations services falling under the prohibition of Article 5n (1) also include lobbying activities?**
   Last update: 26 October 2022

[60] See **Recital (26) of Council Regulation 2022/879 of 3 June 2022, amending Council Regulation 833/2014.**

Yes, lobbying services could constitute public relations services and therefore fall under the prohibition laid down in Article 5n.

As stated in Article 3 of the interinstitutional agreement of 20 May 2021 on a mandatory transparency register, the activities covered by lobbying services include, inter alia:

- organising or participating in meetings, conferences and events, and engaging in any similar contacts with EU institutions;
- contributing to, or participating in, consultations, hearings or similar initiatives;
- organising communication campaigns, platforms, networks and grassroots initiatives; and
- preparing or commissioning policy and position papers, amendments, opinion polls, surveys, open letters, other communication or information material, or commissioning and carrying out research.

However,

- activities by employers and trade unions acting as participants in social dialogue;
- activities carried out by individuals acting in a strictly personal capacity and not in association with others; and
- spontaneous, purely private or social meetings and meetings taking place in the context of an administrative procedure established by the treaties or legal acts of the EU

are not covered by the definition of lobbying activities and therefore fall outside the scope of Article 5n (1).

3. **What do the terms "strictly" and "exclusive" refer to in the exceptions contained in Articles 5n (4b), (5), (6) and (7)?**
   Last update: 2 April 2024

These terms are used to make sure that the exceptions contained in Articles 5n (4b), (5), (6) and (7) are correctly interpreted by EU operators when assessing whether they can rely on these provisions. These exceptions are to be interpreted restrictively. The term strictly means that there is no other way to terminate contracts or to exercise the right of defense other than to rely on the provision of these otherwise prohibited services.

Article 12 prohibits conscious and intentional participation in activities the object or effect of which is to circumvent the prohibitions in the Regulation.

4. **Does the prohibition on providing services "indirectly" in Article 5n prohibit an EU services provider from providing restricted services to subsidiaries of an entity established in Russia?**
   Last update: 30 June 2023

No. It is not prohibited to provide services to non-Russian entities, i.e. entities not established in Russia, even if they are subsidiaries of entities established in Russia.

The use of the term "indirectly" in Article 5n means that it is prohibited for an EU services provider to provide restricted services to EU or other non-Russian entities that are subsidiaries of entities established in Russia if those services would actually be for the benefit of the parent company established in Russia.

Article 12 prohibits knowing and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation.

5. **Does the prohibition on providing services "indirectly" in Article 5n prohibit an EU services provider from providing outsourced restricted services to Russian legal entities?**
   Last update: 30 June 2023

Yes. EU entities cannot provide services to entities established in Russia, so they cannot use outsourced services to provide prohibited services as this indeed could be considered an indirect provision of these services.

Article 12 prohibits EU entities to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation.

6. **Does the prohibition on providing services in Article 5n (1), (2), (2a) and (2b) prohibit entities established in the EU which are subsidiaries of Russian companies from providing prohibited services to their mother companies established in Russia?**
   Last update: 2 April 2024

Yes. Entities established in the EU, including those that are subsidiaries of companies established in Russia, are bound by EU sanctions. Hence, they are prohibited from providing, directly or indirectly, any of the listed services (accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services, architectural and engineering services, legal consultancy services, IT consultancy services, market research and public opinion polling services, technical testing and analysis services and advertising services, software for the management of enterprises and software for industrial design and manufacture) to the Government of Russia or persons established in Russia.

7. **Does the prohibition on providing services prohibit nationals of EU Member States or persons located in the EU from working as employees of entities established in Russia?**
   Last update: 2 April 2024

Not necessarily, it depends on the service provided. Under Article 5n, EU persons, including nationals of EU Member States or persons located in the Union, are prohibited from providing, directly or indirectly, any of the listed services (accounting, auditing, including statutory audit,

bookkeeping or tax consulting services, or business and management consulting or public relations services, architectural and engineering services, legal consultancy services, IT consultancy services, market research and public opinion polling services, technical testing and analysis services and advertising services, software for the management of enterprises and software for industrial design and manufacture) to the Government of Russia or persons established in Russia. Hence, EU persons are prohibited from providing these services to companies established in Russia in their capacity as employees.

However, EU persons can still provide all services that are not prohibited in their capacity as employees.

8. **How is the sectoral scope for 'IT consultancy services' defined in relation to Art 5n (2) of Council Regulation 833/2014?**
   Last update: 24 October 2022

IT consultancy services are defined by reference to the United Nations' Central Products Classification "CPC" (Statistical Office of the United Nations, Statistical Papers, Series M, No 77, CPC prov., 1991).

According to this definition, 'IT consultancy services' include:

- Consultancy services related to the installation of computer hardware: assistance services to the clients in the installation of computer hardware (i.e. physical equipment) and computer networks.

- 'Software implementation services': all services involving consultancy services on, development and implementation of software. The term "software" may be defined as the sets of instructions required to make computers work and communicate. A number of different programmes may be developed for specific applications (application software), and the customer may have a choice of using ready-made programmes off the shelf (packaged software), developing specific programmes for particular requirements (customized software) or using a combination of the two. The following sub-sectors are included:

  - Systems and software consulting services: services of a general nature prior to the development of data processing systems and applications. It might be management services, project planning services, etc.

  - Systems analysis services: analysis services include analysis of the clients' needs, defining functional specification, and setting up the team. Also involved are project management, technical coordination and integration and definition of the systems architecture.

- Systems design services: design services include technical solutions, with respect to methodology, quality-assurance, choice of equipment software packages or new technologies, etc.

- Programming services: programming services include the implementation phase, i.e. writing and debugging programmes, conducting tests, and editing documentation.

- Systems maintenance services: maintenance services include consulting and technical assistance services of software products in use, rewriting or changing existing programmes or systems, and maintaining up-to-date software documentation and manuals. Also included are specialist work, e.g. conversions.

9. Can these measures not further hamper the already challenging working conditions of civil society organisation in Russia?
Last update: 21 December 2022

The ban on IT consultancy services is subject to the exemptions and derogations specified in Article 5n of Council Regulation (EU) No 833/2014, which aims to protect the work of the civil society. The derogations provided for include, inter alia, the supply of IT consultancy services to civil society activities that directly promote democracy, human rights or the rule of law in Russia.

10. What activities are covered under the prohibition on 'architectural and engineering services' in Art. 5n (2) of Council Regulation 833/2014?
Last update: 24 October 2022

'Architectural and engineering services' are defined by reference to the United Nations' Central Products Classification "CPC" (Statistical Office of the United Nations, Statistical Papers, Series M, No 77, CPC prov., 1991). According to this definition, the covered sub-sectors are: 'Architectural services', 'Engineering services', 'Integrated engineering services', 'Urban planning and landscape architectural services' and 'Related scientific and technical consulting services'.

'Architectural services' include:

- Advisory and pre-design architectural services: assistance, advisory and recommendation services concerning architectural and related matters. Included here are services as undertaking preliminary studies addressing issues such as site philosophy, intent of development, climatic and environmental concerns, occupancy requirements, cost constraints, site selection analysis, design and construction scheduling and any other issues affecting the nature of the design and construction of a project. The provision of these services is not necessarily related to a new construction project. For example, it may consist of advice concerning the means of carrying out maintenance, renovation,

restoration or recycling of buildings, or appraisals of the value and quality of buildings or of advice on any other architectural matter.

- Architectural design services: architectural design services for buildings and other structures. Design services may consist of one or a combination of the following: schematic design services, which consist of determining, with the client, the essential character of the project, defining intent, space requirements, budget limitations and time scheduling; and of preparing sketches including floor plans, site plans and exterior views; design development services, which consist of a more precise illustration of the design concept in terms of siting plan, form, material to be used, structural, mechanical and electrical systems and probable construction costs; final design services, which consist of drawings and written specifications sufficiently detailed for tender submission and construction, and of expert advice to the client at the time of calling for and accepting tenders.

- Contract administration services: advisory and technical assistance services to the client during the construction phase to ensure that the structure is being erected in conformity with the final drawings and specifications. This involves services provided both in offices and the field, such as construction inspection, preparation of progress reports, issuance of certificates for payments to the contractor, guidance to the client and the contractor in the interpretation of contract documents and any other advice on technical questions that may develop during construction.

- Combined architectural design and contract administration services: combinations of architectural services utilized on most projects including schematic design, design development, final design and contract administration services. This may include post construction services which consist of the assessment of deficiencies in construction and instructions regarding corrective measures to be taken during the 12-month period following the completion of the construction.

- Other architectural services: all other services requiring the expertise of architects, such as the preparation of promotional material and presentations, preparation of as-built drawings, constant site representation during the construction phase, provision of operating manuals, etc.

‘Engineering services’ include:

- Advisory and consultative engineering services: assistance, advisory and recommendation services concerning engineering matters. Included here are the undertaking of preparatory technical feasibility studies and project impact studies. Examples are: study of the impact of topography and geology on the design, construction and cost of a road, pipeline or other transportation infrastructure; study of the quality or

suitability of materials intended for use in a construction project and the impact on design, construction and cost of using different materials; study of the environmental impact of a project; study of the efficiency gains in production as a result of alternative process, technology or plant layout. The provision of these services is not necessarily related to a construction project. It may consist, for example, of the appraisal of the structural, mechanical and electrical installations of buildings, of expert testimony in litigation cases, of assistance to government bodies in drafting laws, etc.

- Engineering design services for the construction of foundations and building structures: structural engineering design services for the load-bearing framework of residential and commercial, industrial and institutional buildings. Design services consist of one or a combination of the following: preliminary plans, specifications and cost estimates to define the engineering design concept; final plans, specifications and cost estimates, including working drawings, specifications regarding materials to be used, method of installation, time limitations and other specifications necessary for tender submission and construction and expert advice to the client at the time of calling for and accepting tenders; services during the construction phase. Exclusion: Engineering services for buildings if they are an integral part of the engineering design service for a civil work or production plant or facility.

- Engineering design services for mechanical and electrical installations for buildings: mechanical and electrical engineering design services for the power system, lighting system, fire alarm system, communication system and other electrical installations for all types of buildings and/or the heating, ventilating, air conditioning, refrigeration and other mechanical installations for all types of buildings. Design services consist of one or a combination of the following: preliminary plans, specifications and cost estimates to define the engineering design concept; final plans, specifications and cost estimates, including working drawings, specifications regarding materials to be used, method of installation, time limitations and other specifications necessary for tender submission and construction and expert advice to the client at the time of calling for and accepting tenders; services during the construction phase.

- Engineering design services for the construction of civil engineering works: engineering design services for the construction of civil engineering works, such as bridges and viaducts, dams, catchment basins, retaining walls, irrigation systems, flood control works, tunnels, highways and streets including interchanges and related works, locks, canals, wharves and harbours works, water supply and sanitation works such as water distribution systems, water, sewage, industrial and solid waste treatment plants and other civil engineering projects. Design services consist of one or a combination of the following: preliminary plans, specifications and cost estimates to define the engineering design concept; final plans, specifications and cost estimates, including working

drawings, specifications regarding materials to be used, method of installation, time limitations and other specifications necessary for tender submission and construction and expert advice to the client at the time of calling for and accepting tenders; services during the construction phase. Included are engineering design services for buildings if they are an integral part of the engineering design for a civil engineering work.

- Engineering design services for industrial processes and production: engineering design services for production processes, procedures and facilities. Included here are design services as they relate to methods of cutting, handling and transporting logs and logging site layout; mine development layout and underground construction, the complete civil, mechanical and electrical mine surface plant installations including hoists, compressors, pumping stations, crushers, conveyors and ore and waste-handling systems; oil and gas recovery procedures, the construction, installation and/or maintenance of drilling equipment, pumping stations, treating and storage facilities and other oil field facilities; materials flows, equipment layout, material handling systems, processes and process control (which may integrate computer technology) for manufacturing plants; special machinery, equipment and instrumentation systems; any other design services for production procedures and facilities. Design services consist of one or a combination of the following: preliminary plans, specifications and cost estimates to define the engineering design concept; final plans, specifications and cost estimates, including working drawings, specifications regarding materials to be used, method of construction and/or installation, time limitations and other specifications necessary for tender submission and construction and expert advice to the client at the time of calling for and accepting tenders; services during the installation phase. Included are engineering design services for buildings if they are an integral part of the engineering design service for a production plant or facility.

- Engineering design services n.e.c.: other specialty engineering design services. Included here are acoustical and vibration engineering designs, traffic control systems designs, prototype development and detailed designs for new products and any other specialty engineering design services. Exclusion: The aesthetic design of products and the complete design of products which do not require complex engineering (e.g. furniture) are classified in subclass 87907 (Specialty design services).

- Other engineering services during the construction and installation phase: advisory and technical assistance services to the client during construction to ensure that construction work is in conformity with the final design. This involves services provided both in offices and in the field, such as the review of shop drawings, periodic visits to the site to assess progress and quality of the work, guiding the client and the contractor in the interpretation of contract documents and any other advice on technical questions that may develop during construction.

- Other engineering services: engineering services not elsewhere classified. Included here are geotechnical engineering services providing engineers and architects with necessary subsurface information to design various projects; groundwater engineering services including groundwater resources assessment, contamination studies and quality management; corrosion engineering services including inspection, detection and corrosion control programmes; failure investigations and other services requiring the expertise of engineers.

'Integrated engineering services' include:

- Integrated engineering services for transportation infrastructure turnkey projects: fully integrated engineering services for the construction of transportation infrastructure turnkey projects. Services included here are planning and pre-investment studies, preliminary and final design, cost estimation, construction scheduling, inspection and acceptance of contract work as well as technical services, such as the selection and training of personnel and the provision of operation and maintenance manuals and any other engineering services provided to the client that form part of an integrated bundle of services for a turnkey project.

- Integrated engineering and project management services for water supply and sanitation works turnkey projects: fully integrated engineering services for the construction of water supply and sanitation works turnkey projects. Services included here are planning and pre-investment studies, preliminary and final design, cost estimation, construction scheduling, inspection and acceptance of contracts as well as technical services, such as the selection and training of personnel and the provision of operation and maintenance manuals and any other engineering services provided to the client that form part of an integrated bundle of services for a turnkey project.

- Integrated engineering services for the construction of manufacturing turnkey projects: fully integrated engineering services for the construction of manufacturing facilities turnkey projects. Services included here are planning and pre-investment studies to address issues such as the integration of operations, site selection, pollution and effluent control and capital requirements; all necessary structural, mechanical and electrical design services; production process engineering design services including detailed process flow diagrams, general site and plant arrangement drawings, plant and equipment specifications; tender specifications; construction scheduling inspection and acceptance of work as well as technical services, such as the selection and training of personnel, the provision of operations and maintenance manuals, start-up assistance and any other engineering services that form part of an integrated bundle of services for a turnkey project.

- Integrated engineering services for other turnkey projects: fully integrated engineering services for other construction works. Services included here are planning and pre-investment studies, preliminary and final design, cost estimates, construction scheduling, inspection and acceptance of contracts as well as technical services, such as the selection and training of personnel and the provision of operation and maintenance manuals and any other engineering services provided to the client that form part of an integrated bundle of services for a turnkey project.

'Urban planning and landscape architectural services' include:

- Urban planning services: development services of programme regarding land use, site selection, control and utilization, road systems and servicing of land with a view to creating and maintaining systematic, coordinated urban development.

- Landscape architectural services: plan and design services for the aesthetic landscaping of parks, commercial and residential land, etc. This implies preparing site plans, working drawings, specifications and cost estimates for land development, showing ground contours, vegetation to be planted, and facilities such as walks, fences and parking areas. Also included are inspection services of the work during construction.

'Related scientific and technical consulting services' include:

- Geological, geophysical and other scientific prospecting services: geological, geophysical, geochemical and other scientific consulting services as they relate to the location of mineral deposits, oil and gas and groundwater by studying the properties of the earth and rock formations and structures. Included here are the services of analysing the results of subsurface surveys, the study of earth sample and core, and assistance and advice in developing and extracting mineral resources.

- Subsurface surveying services: gathering services of information on subsurface earth formations by different methods, including seismographic, gravimetric, magnetometric and other subsurface surveying methods.

- Surface surveying services: gathering services of information on the shape, position and/or boundaries of a portion of the earth's surface by different methods, including transit, photogrammetric and hydrographic surveying, for the purpose of preparing maps.

- Map - making services: map-making services consisting in the preparation and revision of maps of all kinds (e.g. road, cadastral, topographic, planimetric, hydrographic) using results of survey activities, other maps, and other information sources.

11. Which activities are covered by the prohibition of 'legal advisory services' according to Art 5n (2) of Council Regulation (EU) No. 833/2014? Is the guarantee of the right of defence affected?
Last update: 2 April 2024

The sanctions on 'legal advisory services' have been designed so as to preserve access to justice and the right of defence. 'Legal advisory services' include:

- the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law;

- participation with or on behalf of clients in commercial transactions, negotiations and other dealings with third parties; and

- preparation, execution and verification of legal documents.

Article 5n of Council Regulation (EU) No. 833/2014 explicitly excludes from the ban the provision of services that are strictly necessary:

- for the termination by 8 January 2023 of contracts which are not compliant with this Article concluded before 7 October 2022, or of ancillary contracts necessary for the execution of such contracts [please note that this wind-down period in Art. 5n(4) has expired];

- for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy; or

- to ensure access to judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such provision of services is consistent with the objectives of this Regulation and of Council Regulation (EU) No 269/2014.

12. What is the meaning of "entities or bodies established in Russia"? In particular, do the restrictions in Article 5n(1), (2), (2a) and (2b) apply to services provided to (a) non-Russian branches of Russian entities; (b) non-Russian related parties of Russian companies / non-Russian affiliated parties of Russian companies / non-Russian companies belonging to the same group as Russian companies; (c) non-Russian companies owned by Russian residents?
Last update: 2 April 2024

The restrictions under Article 5n(1), (2), (2a) and (2b) apply to services provided to entities or bodies established in Russia.

As a result, the prohibition:

- Applies to services provided to non-Russian branches of Russian entities, which have no legal personality and are therefore considered to be established in Russia;
- Does not apply to services provided to companies incorporated under the law of a country different from Russia, which are not established in Russia, even if they are subsidiaries of Russian companies or are owned by Russian residents, provided that the services are not for the benefit of the parent company established in Russia.

13. Are services provided to natural persons in Russia covered by the prohibitions under Article 5n(1), (2), (2a) and (2b) of Council Regulation 833/2014?
Last update: 2 April 2024

No, the prohibitions under Article 5n(1), (2), (2a) and (2b) of Council Regulation 833/2014 only cover services provided to the Russian government and to legal persons, entities or bodies established in Russia.

14. Does the prohibition apply to EU individuals providing restricted services to Russian entities?
Last update: 2 April 2024

Yes, the prohibitions in Article 5n(1), (2), (2a) and (2b) have general application, including on individuals.

15. Does the provision of services to EU established but Russian tax residents companies fall under the prohibitions of Article 5n?
Last update: 2 April 2024

Under Article 5n(1), lett. b, (2), lett., (2a), lett. b and (2b) lett. b of Council Regulation (EU) No. 833/2014, it is prohibited to provide the restricted services to legal persons, entities or bodies established in Russia (as well as to the Government of Russia). As a result, it is not prohibited to provide the restricted services to companies that are not established in Russia (including EU subsidiaries of entities established in Russia).

In principle, for the purpose of applying the prohibitions contained in Article 5n, it is not relevant that the EU established company is tax resident (also) in Russia. However, Article 5n prohibits both the direct and the indirect provision of the restricted services to entities established in Russia. As a result, it is possible to provide those services to the EU subsidiary of a Russian company, provided that they are not actually for the benefit of the company established in Russia.

However, it is prohibited to provide restricted services to the EU branches of Russian companies because they do not have legal personality and are considered as entities established in Russia.

It must be ensured that the rules described above are not used as a means to circumvent the application of the EU restrictive measures.

16. **Does the exemption until 30 September 2024 under Article 5n(7) apply only when the Russian entity receiving the services is owned or controlled exclusively by legal persons, entities or bodies incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII?**
    Last update: 2 July 2024

No, it is sufficient that the Russian entity is owned, or solely or jointly controlled by a legal person, entity or body incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII.

The exemption until 30 September 2024 under Article 5n(7) may for instance apply when a Russian company is jointly controlled by an EU company and a company that is neither from the EU nor from a partner country as listed in Annex VIII.

To provide the restricted services after 30 September 2024, operators must obtain an authorisation from the relevant national competent authority according to Article 5n(10) lett. h of Council Regulation 833/2014.

17. **Does the exemption under Article 5n(7) of Council Regulation 833/2014 apply if the legal persons, entities or bodies established in Russia are indirectly owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated or constituted under the law of a Member State, the EEA, Switzerland or a partner country?**
    Last update: 2 July 2024

The exemption under Article 5n(7) applies until 30 September 2024 when the provision of services is intended for the exclusive use of entities established in Russia that are ultimately owned or controlled by an entity from a country of the EU or EEA, from Switzerland or from one of the partner countries as listed in Annex VIII to Council Regulation 833/2014.

In view of the above:

- the exemption applies if for example the Russian entity receiving the services is owned by an entity (which is neither Russian nor from the EU, EEA, Switzerland or partner country as listed in Annex VIII), which is in turn ultimately owned or controlled by a company from the EU, EEA, Switzerland or partner country as listed in Annex VIII;

- the exemption does not apply if for example the Russian entity receiving the services is owned or controlled by a company from the EU, EEA, Switzerland or partner country as listed in Annex VIII, which is in turn owned or controlled by a Russian company or by a company from another jurisdiction (a company not from the EU, EEA, Switzerland or partner country as listed in Annex VIII).

It must be ensured that the rules outlined above are not used as a means to circumvent the application of the EU restrictive measures.

To provide the restricted services after 30 September 2024, operators must obtain an authorisation from the relevant national competent authority according to Article 5n(10) lett. h of Council Regulation 833/2014.

18. **Does the exemption under Article 5n(7) apply when the Russian legal person is owned or controlled by a natural person who is the citizen of a Member State, of a country member of the European Economic Area, of Switzerland or of a partner country as listed in Annex VIII?**
Last update: 2 July 2024

No. The exemption, until 30 September 2024, under Article 5n(7) is meant to apply only to subsidiaries of EU companies (or of companies incorporated in EEA, Switzerland or a partner country as listed in Annex VIII). It does not apply to services provided to Russian companies owned or controlled by individuals, including when those individuals are from the EU, EEA, Switzerland or from one of the partner countries as listed in Annex VIII.

19. **Do the prohibitions in Article 5n restrict the possibility to provide the relevant services to Russian entities controlled by foreign companies not being from the EU, EEA, Switzerland or from one of the partner countries as listed in Annex VIII?**
Last update: 2 July 2024

Yes. The exemption under Article 5n(7) applies only with respect to entities owned or controlled by EU companies, companies incorporated in the EU, EEA, Switzerland or from one of the partner countries as listed in Annex VIII, and only applies until 30 September 2024.

To provide the restricted services after 30 September 2024, operators must obtain an authorisation from the relevant national competent authority according to Article 5n(10) lett. h of Council Regulation 833/2014.

20. **When are legal advisory services indirectly provided for the purposes of Article 5n(2) of Council Regulation 833/2014?**
Last update: 21 December 2022

An indirect provision of legal advisory services is constituted when another operator than the recipient of services is (also) benefitting from them. This could be the case when e.g. an EU subsidiary is receiving legal consultation, which indirectly benefits the Russian parent company.

Although a case-by-case assessment is required, certain legal services are more likely than others to be (also) for the benefit of the parent company: legal consultation regarding a local issue, e.g. car lease for local staff in a EU Member State, is less likely to constitute an indirect provision of prohibited legal advisory services as this typically benefits largely the EU subsidiary. However, e.g. the legal consultation to set up a new globally operating corporate structure probably would.

21. **Are notarial services covered by the prohibition under Article 5n(2) of Council Regulation 833/2014? Does the prohibition also apply in cases where notaries are state-appointed public officers and exercise public authority when performing their activities on behalf of the participants? Is the exercise of public authority through notaries covered by the prohibition of "legal advisory services" within the meaning of the Council Regulation?**
Last update: 21 December 2022

Yes, notarial services are covered by the prohibition under Article 5n(2) of Council Regulation 833/2014 if they are provided to an entity established in Russia or to the Government of Russia and do not fall within any of the applicable exemptions provided in Article 5n.

The status of the provider of the services is not relevant, only the provision of certain services itself is prohibited. The fact that seeking a certain service is mandated or even just recognised by the law does not mean that the provision of this service is somehow exempted from the prohibition set out by Art 5n(2) of Council Regulation 833/2014.

The prohibition applies for example to the authentication of contracts and other declarations directed at the performance of legal transactions, as well as the certification of signatures and the establishment of deeds regarding factual circumstances (these activities would be covered by the notion of "preparation, execution and verification of legal documents"; see recital 19 of Council Regulation 1904/2022).

22. **Does the exemption for court and administrative procedures pursuant to Art. 5n(6) also apply to official notarial authentication procedures?**
Last update: 21 December 2022

According to Article 5n(6), only those legal advisory services are exempted which are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in the EU or which are needed for the recognition or enforcement of a judgment or an arbitration award rendered in the EU. If notarial authentication services are strictly necessary in those circumstances and meet the conditions, they are exempted from the prohibition.

23. **Are pro bono legal services covered by the prohibition under Article 5n(2) of Council Regulation 833/2014?**
Last update: 21 December 2022

No specific exemptions or derogations are provided for pro bono legal advisory services as such. As a result, it is in general prohibited to provide those services to the Government of Russia and to any legal person, entity or body established in Russia.

However, as with remunerated services, pro-bono services are not prohibited if they fall outside the scope of that prohibition or fall within the scope of application of the general exemptions provided under Article 5n (e.g. they are provided to a natural person, they are covered by the exemptions in paragraphs 5 or 6). The same services may also be authorized if they fall within the scope of application of one of the derogations provided in Article 5n (for example if their provision is necessary for humanitarian purposes or for civil society activities that directly promote democracy, human rights or the rule of law in Russia).

24. Are law firms and lawyers subject to EU jurisdiction authorized to represent the Government of Russia or legal entities established in Russia in judicial, arbitral or administrative proceedings outside the EU?
Last update: 21 December 2022

The exemption under Article 5n(6) only applies to the provision of services which are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State.

However, the provision of the legal advisory services may still be allowed (even outside of the EU) if it falls within the scope of Article 5n(5), i.e. if the services are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy.

25. Does the prohibition also cover legal advisory services under the Russian laws (or any other laws, non-EU) provided by the Russian representative office of an EU based legal entity?
Last update: 21 December 2022

The prohibition to provide legal advisory services applies regardless of the type of law (EU law, Russian law or other) to which it refers. The representative offices of EU legal entities are bound to comply with EU restrictive measures, and it is therefore prohibited for them to provide the restricted services to the Government of Russia or to companies in Russia (unless any of the exemptions or derogations in Article 5n apply).

26. Is it prohibited to provide sanctions compliance advice to Russian entities and the Government of Russia?
Last update: 21 December 2022

Russian companies are generally not bound to comply with EU sanctions, which typically only apply to EU companies and companies doing business in the EU. As a result, they should not in principle need to seek legal advice regarding the application of EU sanctions.

EU companies (not their Russian counterparties) are typically the entities applying for the authorizations to be issued by the national competent authorities of the EU Member States, under the derogations contained in the EU sanctions regulations. It is not prohibited to provide services to non-Russian entities (i.e., entities not established in Russia), even if they are subsidiaries of entities established in Russia. However, it is for example prohibited to provide services to EU or other non-Russian entities that are subsidiaries of entities established in Russia if those services would actually be for the benefit of the parent company established in Russia.

EU restrictive measures do not contain a specific exception for the provision of sanctions compliance advice as such.

However, the prohibition under Article 5n does not apply inter alia to the provision of:

- Services that are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy (paragraph 5); and

- Services which are strictly necessary to ensure access to judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such provision of services is consistent with the objectives of this Regulation and of Council Regulation (EU) No 269/2014 (paragraph 6). As explained in Recital 19 of Council Regulation (EU) 2022/1904, the prohibition of legal services does not apply to representation, advice, preparation of documents or verification of documents in the context of legal representation services.

In view of the above, the provision of sanctions compliance advice may not be prohibited if it falls in one or more of the cases explicitly allowed under the provisions above. In any event, legal services providers must pay particular attention that their services to Russian entities do not entail any legal advice which might be considered as a form of evasion of EU sanctions by those Russian entities and/or circumvention of those sanctions by EU companies.

27. How should the term "statutory audit" in Article 5n(1) of Council Regulation 833/2014 be interpreted?
Last update: 21 December 2022

In general terms, the scope of the services prohibited under Article 5n(1) of Council Regulation 833/2014 should be interpreted with reference to Annex II to Regulation (EC) No 184/2005 of the European Parliament and of the Council of 12 January 2005 on Community statistics concerning balance of payments, international trade in services and foreign direct investment. Accounting, auditing, bookkeeping and tax consultancy services cover the recording of commercial transactions for businesses and others; examination services of accounting records and financial statements; business tax planning and consulting; and the preparation of tax documents.

With respect in particular to the definition of 'statutory audits', in the European Commission's view this may be interpreted by reference to the definition contained in Article 2(1) of Directive 2006/43/EC. Please note anyway that Article 5n(1) shall be read in its integrity and the "statutory

audit" is just a subset, an example of all the services that must not be provided to the Russian government and to Russian entities.

28. Does 'IT consultancy services' cover the supply of software?
Last update: 2 April 2024

IT consultancy services include the development and implementation of software, as well as assistance or advice relating to the development and implementation of software, thus including the supply of bespoke software. However, the retail sale of off-the-shelf software is covered under a different CPC code (CPC 63252) and is therefore not included in the scope of IT consultancy services within the meaning of Article 5n(2) of the Council Regulation (EU) No 833/2014.

On 18 December 2023, the Council has adopted a prohibition to export, sale, transfer, supply or provision of software for the management of enterprises and software for industrial design and manufacture as listed in Annex XXXIX to Council Regulation 833/2014 to the Government of Russia or legal persons, entities or bodies established in Russia. For further information, see the dedicated FAQs on Software published on 6 February 2024.

29. Does 'IT consultancy services' cover software updates and upgrades?
Last update: 2 April 2024

The CPC classification of IT consultancy services referred to in Article 5n(2) of the Council Regulation (EU) No 833/2014 includes a category called 'systems maintenance services'. Those include consulting and technical assistance services regarding software products in use, rewriting or changing existing programmes or systems, and maintaining up-to-date software documentation and manuals.

To that extent, IT consultancy services also include assistance or advice relating to software updates and upgrades, as well as bespoke software updates and upgrades. However, in cases where software updates and upgrades do not involve the provision of assistance or advice to the customer, for example in cases of the supply of automatic software updates to previously purchased software other than bespoke software, this should not be regarded as IT consultancy services within the meaning of Article 5n(2) of the Regulation.

30. Does the prohibition to provide legal advisory services also include the provision of legal representation in front of courts?
Last update: 30 June 2023

As recital 19 of Council Regulation 1904/2022 mentions, legal advisory services do not include any representation, advice, preparation of documents or verification of documents in the context of legal representation services, namely in matters or proceedings before administrative agencies, courts or other duly constituted official tribunals, or in arbitral or mediation proceedings. Hence they are not subject to the prohibition.

31. Does IT consultancy services according to Art 5n(2) of Council Regulation (EU) No. 833/2014 also include 'cloud services'?
Last update: 2 April 2024

No, 'cloud services' are in general not covered under the definition of 'IT consultancy services' set out in Article 5n(2) of the Regulation and are therefore not subject to the relevant prohibition.

However, the prohibition in Art. 5n(2b) covers software for the management of enterprises or software for industrial design and manufacture delivered in any form, also through cloud services (Software-as-a-service or Saas cloud services in relation to such software).

32. Are technical assistance or maintenance services provided for already existing software products, programmes or systems covered by the prohibition to provide IT consultancy services?
Last update: 30 June 2023

Yes, unless no exemption of derogation of Art 5n applies, maintenance services are also covered under the definition of "IT consultancy services" and hence prohibited. See also CPC class 8425 "systems maintenance services" in Question 8 above.

33. Why was a derogation needed from the prohibition to provide certain services to Russian companies in connection with firewalls?
Last update: 24 July 2023

The services prohibitions (Article 5n of Council Regulation (EU) No 833/2014) prevent the provision of certain services that may be necessary for the setting up of a firewall (in particular, legal advisory services and auditing services), whereas they would be directly or indirectly for the benefit of a Russian entity.

In view of the above, in such cases a derogation from Article 5n(1) and (2) of Regulation (EU) No 833/2014 allows the national competent authorities to authorise the provision of certain restricted services, under such conditions as they deem appropriate.

The derogation only applies if the relevant conditions are met, and notably provided that: (i) the relevant services are strictly necessary for the setting-up, certification or evaluation of a firewall; (ii) the firewall effectively removes the control by the listed person, entity or body over the assets of a non-listed EU person, which is owned or controlled by the former and (iii) ensures that no further funds or economic resources accrue for the benefit of the listed person (see also Question 42 of the FAQ on the Asset Freeze and Prohibition to make funds and economic resources available regarding in general the firewall and Questions 43 and 44 of the same FAQ regarding the corresponding derogation from the asset freeze and the prohibition on making economic resources available to listed persons).

34. Is the provision of ancillary services, i.e. technical assistance, financing or financial assistance and 'other services' to Russian subsidiaries of EU companies related to the restricted goods and services under Article 5n(1), (2), (2a) and (2b) of Council Regulation (EU) No 833/2014 possible?

Last update: 2 April 2024

Article 5n(3a) of Council Regulation 833/2014 prohibits the provision of ancillary services (e.g. technical assistance, brokering services, financing or financial assistance) related to goods and services prohibited under Article 5n(1), (2), (2a) and (2b).

Under Article 5n(10), the competent authorities may authorise the sale, supply, transfer, export, or provision of the services, including ancillary services under Article 5n(3a). Hence, an EU operator would need to submit an authorisation request with the relevant national competent authority to be able to continue to provide prohibited services, including technical assistance or financing, to the Government of Russia or legal persons, entities or bodies established in Russia.

Article 5n(4b) established a wind-down period until 20 March 2024 for software for prior contracts. Therefore, where the sale, supply, transfer or export of the good or the provision of the "main" service was exempted (as was the case during the wind-down period), the related ancillary services could continue to be provided as well.

35. As from 30 September 2024, EU operators will have to request an authorisation to provide "intra-group" services (see Art. 5n(10)(h)). Can they request an authorisation for more than one service ("bundled authorisation") or for services provided from more than one Member State, e.g. via their subsidiaries in several Member States?

Last update: 2 April 2024

Member States and their national competent authorities are responsible for the implementation and enforcement of EU sanctions. This also concerns authorisation procedures (e.g. processing time, information and documents needed to grant authorisation, period for which an authorisation is granted, etc.).

A national competent authority may decide to grant "bundled authorisations" for similar services offered under the same derogation(s) to the same Russian client. By way of example, a national competent authority may grant an authorisation to a specific operator for a number of similar or identical services to be provided during a specific timeframe to the same Russian counterpart (e.g. weekly or quarterly) under a derogation concerning humanitarian purposes. This authorisation could be coupled with reporting obligations at the end of the

stated period to ensure that the authorisation has been used according to the specified conditions.
Council Regulation (EU) 833/2014 does not foresee general authorisations covering entire sectors or activities (as e.g. would be possible under the US or UK system). Such a general authorisation would amount to a de-facto exemption, which the Council would need to establish explicitly. However, in the 12th sanctions package the Council has further replaced existing exemptions with derogations, requiring a prior authorisation.

Furthermore, the Court of Justice of the EU has clarified that a national competent authority must, when assessing authorisation requests, make an assessment on a case-by-case basis and that it is not authorised to give general approval to a certain category of transactions in respect of which the entities concerned would be relieved of the need to request authorisation on a case-by-case basis (Judgment of the Court of 5 March 2015, paragraph 76, Europäisch-Iranische Handelsbank AG v Council of the European Union, C-585/13P, ECLI:EU:C:2015:145).

An authorisation issued by the national competent authority of a Member State is valid only within that Member State. Therefore, authorisations are not automatically valid in other Member States e.g. in the case of a parent company and a subsidiary located in different Member States. Operators must request authorisations in each Member State they are planning to provide services from. When requesting an authorisation, the Commission recommends that the operator informs its national competent authority that a similar authorisation is being or has been requested for its subsidiary in another Member State. This will allow national competent authorities to exchange relevant information.

The Commission continues to support and monitor the uniform implementation of EU sanctions by Member States, including the granting of authorisations. Member States have the obligation to inform other Member States and the Commission of any authorisation granted pursuant to Art. 5n(11) of Reg. 833/2014.

36. Is the provision of services to the Russian Government or Russian entities via subsidiaries in third countries prohibited under Article 5n?
Last update: 2 April 2024

Article 5n prohibits the sale, supply, transfer, export and the provision of services and software to the Russian Government or Russian entities. The provision of services and software to the Russian Government or Russian entities by EU operators via their subsidiaries in third countries could be considered an indirect provision of these services, which would therefore be prohibited under Article 5n.

Moreover, Article 12 prohibits EU entities to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation.

37. Are nationals of EU Member States subject to the prohibition to provide services, even if the services are provided as an employee of an EU mother company to a subsidiary in Russia?
Last update: 5 September 2024

Yes. According to Article 13 of Council Regulation 833/2014, any person inside or outside the territory of the Union who is a national of a Member State is subject to the prohibition. As a consequence, this would also include employees of EU operators providing the prohibited services to the subsidiary in Russia.

On 24 June 2024, an exemption for nationals of a Member State who are residents of Russia and were so before 24 February 2022 was introduced. They are allowed to provide certain services (otherwise covered by a prohibition under 5n(1), 5n(2), 5n(2a)) for the exclusive use of their employers, only if their employers are subsidiaries owned or controlled by entities established in a Member State, a country member of the European Economic Area, Switzerland or a partner country (as listed in Annex VII to Council Regulation 833/2014), see Article 5n(8a).

Pursuant to Article 5n(10) the competent authorities may authorise the sale, supply, transfer, export, or provision of the services (otherwise prohibited under 5n(1), 5n(2), 5n(2a), 5n(2b) and 5n(3a)) for the exclusive use of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated or constituted under the law of a Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII.

See also Question 7 for further information.

ANNEX A - OVERVIEW OF PROHIBITIONS ON SERVICES AND SOFTWARE

Scope	Accounting, auditing, including statutory audit, bookkeeping, tax consulting services, business and management consulting, public relations services *Article 5n(1) Council Regulation 833/2014*	Architectural and engineering services, legal advisory services, IT consultancy services *Article 5n(2) Council Regulation 833/2014*	Market research and public opinion polling services, technical testing and analysis services, advertising services *Article 5n(2a) Council Regulation 833/2014*	Software for the management of enterprises and software for industrial design and manufacture as listed in Annex XXXIX *Article 5n(2b) Council Regulation 833/2014*
Wind-down	Termination by **5 July 2022** of contracts concluded before **4 June 2022**	Termination by **8 January 2023** of contracts concluded before **7 October 2022**	Termination by **16 January 2023** of contracts concluded before **17 December 2022**	Termination by **20 March 2024** of contracts concluded before **19 December 2023**
Exemption for services that are strictly necessary for the exercise of the **right of defence** in judicial proceedings and the **right to an effective legal remedy** *Article 5n(5) Council Regulation 833/2014*	Applicable	Applicable	Not Applicable	Not Applicable
Exemption for services that are strictly necessary to ensure **access to judicial, administrative or arbitral proceedings** in a Member State *Article 5n(6) Council Regulation 833/2014*	Applicable	Applicable	Not Applicable	Not Applicable
Exemption for services that are strictly necessary for the **recognition or enforcement**	Applicable	Applicable	Not Applicable	Not Applicable

of a judgement or an arbitration award rendered in a Member State *Article 5n(6) Council Regulation 833/2014*				
Exemption for services intended for the exclusive use of entities **owned or controlled by entities from EU, EEA or a listed partner country** *Article 5n(7) Council Regulation 833/2014*	Applicable (until 30 September 2024)	Applicable (until 30 September 2024)	Applicable (until 30 September 2024)	Applicable (until 30 September 2024)
Exemption for services that are necessary for **public health emergencies**, the urgent prevention or mitigation of an event likely to have a serious and significant impact **on human health and safety or the environment**, or as a response to **natural disasters** *Article 5n(8) Council Regulation 833/2014*	Not Applicable	Applicable	Applicable	Applicable
Derogation for services necessary for: *Article 5n(10) Council Regulation 833/2014*				
• **humanitarian purposes** (such as delivering or facilitating the delivery of assistance, including medical supplies, food, or the transfer of humanitarian workers and related assistance or for evacuations)	Applicable	Applicable	Applicable	Applicable
• **civil society activities** that directly promote democracy, human rights or the rule of law in Russia	Applicable	Applicable	Applicable	Applicable
• the functioning of **diplomatic and consular representations** of the Union and of the Member States or partner countries in Russia, or international organisations	Applicable	Applicable	Applicable	Applicable

• ensuring **critical energy supply** within the Union and the purchase, import or transport into the Union of **titanium, aluminium, copper, nickel, palladium and iron ore**	Applicable	Applicable	Applicable	Applicable
• ensuring the continuous operation of **infrastructures, hardware and software** which are **critical** for human health and safety, or the safety of the environment	Applicable	Applicable	Applicable	Applicable
• the establishment, operation, maintenance, fuel supply and retreatment and safety of civil nuclear capabilities, and the continuation of design, construction and commissioning required for the completion of **civil nuclear facilities, such as the Paks II projec**t, the supply of precursor material for the production of medical radioisotopes and similar medical applications, or critical technology for environmental radiation monitoring, as well as for civil nuclear cooperation, in particular in the field of research and development	Applicable	Applicable	Applicable	Applicable
• the provision of electronic communication services by Union telecommunication operators necessary for the operation, **maintenance and security**, including cybersecurity, **of electronic communication services**, in Russia, in Ukraine, in the Union, between Russia and the Union, and between Ukraine and the Union, and for data centre services in the Union	Applicable	Applicable	Applicable	Applicable
• the **exclusive use** of legal persons, entities or bodies established in Russia that are owned by, or solely or jointly controlled by, a legal person, entity or body which is	Applicable	Applicable	Applicable	Applicable

incorporated or constituted under the law of a **Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII**				

9. SOFTWARE

RELATED PROVISION: ARTICLE 5n(2b) OF COUNCIL REGULATION 833/2014

1. **The EU has prohibited the provision of certain business-relevant services to the Russian government, as well as to legal persons such as companies and other entities or bodies established in Russia. What kind of services are prohibited?**
   Last update: 6 February 2024

As of 18 December 2023, it is prohibited to sell, supply, transfer, export, or provide, directly or indirectly, software for the management of enterprises and software for design and manufacture, to the Government of Russia or to legal persons, entities or bodies established in Russia.

A wind-down period of three months was introduced for the sale, supply, transfer, export, or provision of software that is strictly necessary for the termination by 20 March 2024 of contracts concluded before 19 December 2023 or of ancillary contracts necessary for the execution of such contracts.

The prohibition covers software in a material form (e.g. saved on a storage medium like a flash drive or printed on an IT support) or in intangible form (e.g. download from a cloud, transferred by technology by email).

The provision of technical assistance, brokering services or other services related to the prohibited software as well as the provision of financing or financial assistance is also prohibited (see Art. 5n (3a)).

2. **What types of software are covered by the prohibition in Art. 5n(2b)?**
   Last update: 6 February 2024

The prohibition in Article 5n(2b) refers to two types of software – software for the management of enterprises and design and manufacturing software. This prohibition aims to further hamper Russia's capacities in its industrial sector.

Annex XXXIX lists the following types of software:

1. Software for the Management of Enterprises, i.e. systems that digitally represent and steer all processes happening in an enterprise, including:

- enterprise resource planning (ERP),
- customer relationship management (CRM),
- business intelligence (BI),
- supply chain management (SCM),

- enterprise data warehouse (EDW),
- computerized maintenance management system (CMMS),
- project management software,
- product lifecycle management (PLM),
- typical components of the above-mentioned suites, including software for accounting, fleet management, logistics and human resources.

2. Design and Manufacturing Software used in the areas of architecture, engineering, construction, manufacturing, media, education and entertainment, including:

- building information modelling (BIM),
- computer aided design (CAD),
- computer-aided manufacturing (CAM),
- engineer to order (ETO),
- typical components of above-mentioned suites.

3. Does the prohibition in Art. 5n(2b) also includes software updates?
Last update: 6 February 2024

Yes, the prohibition to sale, supply, transfer, export, and the provision of the software listed in Annex XXXIX also covers software updates.

Please note that assistance or advice relating to software updates and upgrade, as well as bespoke software updates and upgrades were already subject to a prohibition to provide IT Consultancy services to the Russian Government or Russian entities, according to Art. 5n(2).

4. Does Article 5n(2b) prevent the provision of software services to entities in third countries, other than Russia?
Last update: 6 February 2024

Article 5n(2b) concerns software for the management of enterprises and for industrial design and manufacture. It prohibits the sale, supply, transfer, export, and the provision of such software to the Russian Government or Russian entities. The intention is to deprive those recipients of the latest software development.

The prohibition in Article 5n(2b) does not affect the sale, supply, transfer, export, and the provision of the software in question to entities in other third countries, which are not targeted by the provision.

Consequently, the new prohibition allows an EU operator to continue providing software to its multinational clients with multiple global subsidiaries and affiliates, including when some of those affiliates are Russian.

However, this is different for cases of suspected circumvention, for instance if the client may in fact seek to acquire the software for a predominant use by a subsidiary established in Russia or any other legal person, entity or body established in Russia.

EU operators must carry out relevant due-diligence to avoid participating in circumvention (see also Article 12 of Regulation 833/2014 which prohibits EU operators to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions).

10.TRUST SERVICES

RELATED PROVISION: ARTICLE 5m OF COUNCIL REGULATION 833/2014

1. What should be understood by the term "trust or any similar legal arrangement" as mentioned in Article 5m of Council Regulation (EU) 833/2014?

Last update: 24 June 2022

There is a variety of trusts and legal arrangements used throughout the Member States. The common law trust serves as an example but there is no single definition of what qualifies as a "similar legal arrangement". Accordingly, it would be relevant to assess such an arrangement's structure or function as compared to that of a trust, such as the establishment of a fiduciary bond between parties and a separation or disconnection of legal and beneficial ownership of assets.

You may refer to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing as well as the report from the Commission assessing whether Member States have duly identified and made subject to the obligations of Directive (EU) 2015/849 all trusts and similar legal arrangements governed under their laws.[61]

2. What activities are prohibited in relation to trusts? How is this prohibition to be applied in practice?

Last update: 24 June 2022

Article 5m, paragraph 1, prohibits the registration of any trust or similar legal arrangement. Accordingly, no EU person should register a new arrangement. Where registration is mandatory under national law in order for the trust or another similar legal arrangement to be set up, this would not be possible.

With regards to trusts or similar legal arrangements which are already established, Article 5m paragraph 1 prohibits the provision of a registered office, business or administrative address as well as the provision of management services whereas paragraph 2, prohibits the provision of trustee services to any trust or similar legal arrangement.

As such services may be necessary for the operation of such arrangements, the prohibition requires their dissolution, the resurfacing of all assets as well as the restitution of assets to the trustor or distribution to beneficiaries (subject to a derogation under Article 5m paragraphs 5 and 6).

[61] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0560

If a settlor or beneficiary of a trust or similar legal arrangement is a person subject to an asset freeze under EU sanctions, any assets to be returned or distributed to this person should be immediately frozen.
Please note that these prohibitions apply for any trust or similar legal arrangement having as a trustor or a beneficiary any of the persons described in paragraph 1(a) to (e) that is:

(a) Russian nationals or natural persons residing in Russia;

(b) legal persons, entities or bodies established in Russia;

(c) legal persons, entities or bodies whose proprietary rights are directly or indirectly owned for more than 50 % by a natural or legal person, entity or body referred to in points (a) or (b);

(d) legal persons, entities or bodies controlled by a natural or legal person, entity or body referred to in points (a), (b) or (c); or

(e) a natural or legal person, entity or body acting on behalf or at the direction of a natural or legal person, entity or body referred to in points (a), (b), (c) or (d).

3. Article 5m was amended by Council Regulation (EU) 2022/879 of 3 June 2022. What has changed?
Last update: 24 June 2022

Article 5m was amended in the following manner:

- The wind-down period in paragraph 3 was extended from 10 May 2022 to 5 July 2022. From 5 July 2022, it will be prohibited to provide trustee services to trusts or similar legal arrangements falling under the scope of Article 5m, paragraph 1.

- Where, in compliance with Council Regulation (EU) 2022/576 of 8 April 2022, the winding-down of a trust or similar legal arrangement was initiated before 11 May 2022, a national competent authority may authorise operations strictly necessary for the termination until 5 September 2022.

- A national competent authority may also authorise the provision of services if the trustee does not accept from or distribute assets to a trustor or beneficiary in paragraph 1 (a) to (e). This means that a trust or similar legal arrangement can continue to operate, for instance, where there are several beneficiaries including EU persons.

- The derogation foreseen in paragraph 6 (previously paragraph 5) for humanitarian purposes and civil society activities was expanded to cover the operation of trusts whose purpose is the administration of occupational pension schemes, insurance policies or employee share scheme, charities, amateur sports clubs, and funds for minors or vulnerable adults.

- A new reporting obligation for Member States under paragraph 7, regarding any authorisation granted under paragraphs 5 and 6.

4. If beneficiaries of such trusts include both Russian nationals and non-Russian nationals, how should the prohibition be applied?
Last update: 24 June 2022

The prohibition to register a new trust or provide trustee services only applies where a settlor or beneficiary is a Russian person as defined under paragraph 1 (a) to (e). Where applicable, these services could be provided or continue if these persons are removed from the trust or similar legal arrangement.

Furthermore, in accordance with Article 5m, paragraph 4, the prohibitions do not apply where a trust or similar legal arrangement has only one trustor or one beneficiary who is a national of a Member State or a natural person having a temporary or permanent residence permit in a Member State.

Finally, paragraph 5(b) provides that a national competent authority may also authorise the provision of services if the trustee does not accept from or distribute assets to a trustor or beneficiary in paragraph 1 (a) to (e). This means that a trust or similar legal arrangement can continue to operate, for instance, where there are several beneficiaries including EU persons.

5. Should trusts apply individually for a derogation or can a national competent authority provide an exemption for all trusts of a similar type, such as pension funds?
Last update: 24 June 2022

National competent authorities should ensure that any authorisation granted fulfils the derogation conditions as laid down in Article 5m of Council Regulation 833/2014. Accordingly, the provision of any prohibited services to trusts or any similar legal arrangement falling under the scope of the Regulation should be authorised individually.

6. Do the prohibitions apply to dual nationals (having Russian nationality and the nationality of an EU Member State) as well as persons of Russian nationality who have a temporary or permanent residence permit in another Member State?
Last update: 24 June 2022

Russian nationals falling under the scope of paragraph 1 (a) and (e) with dual Russian-EU nationality or having a temporary or permanent residence permit in a Member State can benefit from the exemption under Article 5m, paragraph 4.

The exemption provides that prohibitions do not apply where a trust or similar legal arrangement has only one trustor or one beneficiary who is a national of a Member State or a natural person having a temporary or permanent residence permit in a Member State.

For a dual national having both Russian nationality and a nationality of a country other than that of a Member State, the prohibitions in Article 5m apply.

For trusts with both Russian and non-Russian settlors or beneficiaries, we refer you to Question 4 of this FAQ.

7. Should undertakings for the collective investment in transferable securities (UCITS) or alternative investment fund (AIF) structures be deemed to be covered by the terms "trust or any similar legal arrangements" within the meaning of Article 5(m)?
Last update: 8 July 2022

Whilst there exists a variety of trusts and legal arrangements throughout the Member States, the qualification of UCITS or AIF structures would need to be assessed on the merits of the specific circumstances, such as the nature, structure, administration function, location/custody of assets, discretionary/non-discretionary mandate of the fund in question and the beneficial owners of the assets.

Against this background, UCITS should normally not be deemed to be covered by the term "trust or similar legal arrangements" since UCITS is a regulated financial product. Accordingly, it should meet the requirements set out in Directive 2009/65/EC, must be authorised by a national competent authority (NCA) and be managed by an approved UCITS management company. Nevertheless, given that UCITS may be constituted in accordance with contract law (as common funds, including unit trusts managed by management companies), trust law (as unit trusts), or statute (as investment companies), it could prove relevant - especially where UCITS have been constituted in accordance with trust law - to assess UCITS structure or function, including the establishment of a fiduciary bond between parties and a separation or disconnection of legal and beneficial ownership of assets, etc.

As regards the use of AIF structures, there are no harmonised rules at EU level regarding the operation of AIFs. The generic term "AIF structures" may, in principle, be deemed to fall within the notion of "trusts or similar legal arrangements". That is particularly relevant for situations where AIFs are constituted in accordance with trust law or contract law, for non-EU AIFs, AIFs with no legal personality, self-managed AIFs and certain offshore AIF structures of third countries which may happen to be largely unsupervised and non-transparent or non-reporting vehicles with opaque nature/function of the management mandate, assets and their location and/or beneficial owners. In this context, it is particularly relevant to refer to Article 12 of Council Regulation (EU) 833/2014, which seeks to prohibit activities the object or effect of which is to circumvent, prohibitions set out in that Regulation.

8. Should foundations be considered to fall under the scope of the prohibition?
Last update: 8 July 2022

Foundations are regarded as the civil law equivalent to a common law trust, as they may be used for similar purposes. This equivalence is reflected in Directive (EU) 2015/849 which imposes on foundations the same beneficial ownership requirements as on trusts

and similar legal arrangements. Accordingly, persons holding equivalent positions in foundations as settlors and beneficiaries should be construed as being subject to the same restrictions under Article 5m.

11. CHEMICALS

RELATED PROVISION: REGULATION (EC) No 1907/2006; COUNCIL REGULATION 833/2014; COUNCIL REGULATION 269/2014

1. How do EU sanctions, in particular Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014, interplay with Regulation (EC) No 1907/2006 and other EU legislation on chemicals in general?
Last update: 1 July 2022

European Union sanctions, including Council Regulation (EU) No 269/2014 and Council Regulation (EU) No 833/2014 apply as *lex specialis* with respect to Regulation (EC) No 1907/2006 and other Union legislation on chemicals in general. This means that, while both instruments must continue to be interpreted purposively, that is to say to give full effect to their objectives, the provisions of the latter should apply as long as they are not in conflict with EU sanctions or they cannot be derogated from (see e.g. Question 5).

2. What does Council Regulation (EU) No 269/2014 entail for communication platforms[62] for data sharing and chemical companies?
Last update: 24 July 2024

Under Council Regulation (EU) No 269/2014, the EU has designated a number of individuals and legal persons as subject to sanctions. Being a "designated person" means that all funds and economic resources, directly or indirectly belonging to, held or controlled by a designated person must be frozen. In practice, any EU legal and private person and EU Member State's public institution doing business in the EU must prevent any transfer of, alteration of, access to, use of or other dealings with those funds or economic resources. The freezing of economic resources of a designated person means that any asset of a designated person, whether tangible or intangible, cannot be used by anyone to obtain other funds or assets. Property rights over data and vertebrate or non-vertebrate studies qualify as economic resources since they can be used by the data owner or the recipient of a letter of access to obtain economic benefits (e.g. via the submission of a registration dossier to the European Chemicals Agency (ECHA) or updates of an existing registration). Hence, they are subject to such restriction.

Council Regulation (EU) No 269/2014 also prohibits making funds or economic resources available to designated persons or persons owned/controlled by them. By way of example, this means that no further trade with those persons is possible as of the moment of their designation. This includes sharing data and studies or making available financial profits to a designated communication platform member, including if they are

[62] Communication platforms should be understood as any of the several possible ways in which companies can organise their cooperation under REACH. These forms of cooperation can vary from loose ways of cooperating (e.g. IT tools to communicate between all members of a joint submission) to more structured and binding models (e.g. consortia created by means of contracts). Participation in a SIEF (substance information exchange forum) was mandatory for phase-in substances until the last REACH registration deadline of 31 May 2018. After the end of the phase-in period, however, co-registrants remain encouraged to use similar informal communication platforms to enable them to meet their continuing registration and data sharing obligations under REACH.

originating from costs sharing. Council Regulation (EU) No 269/2014 provides for several exceptions, in particular Article 6e(1a) whereby the National Competent Authorities (NCAs) of a Member State, based on a specific and case-by-case assessment, may authorise, for each relevant transaction separately, the release of certain frozen funds or economic resources belonging to natural persons listed in Annex I thereto who held a significant role in international trade in agricultural and food products, including wheat and fertilisers, prior to their listing, or the making available of certain funds or economic resources to those persons, under such conditions as the NCAs deem appropriate and after having determined that such funds or resources are necessary for the sale, supply, transfer or export of agricultural and food products, including wheat and fertilisers, to third countries in order to address food security. Subject to the assessment of the NCA, in the context of REACH Regulation this derogation can apply in the case of chemicals whose intended use is as fertilisers.

See also on this Commission FAQs on Sanctions adopted following Russia's military aggression against Ukraine ('Russia sanctions FAQs'), Section A. Horizontal as well as Circumvention and Due diligence, and B. Individual financial measures.

3. **What does Council Regulation (EU) No 833/2014 entail for communication platforms for data sharing and chemical companies?**
   Last update: 24 July 2024

Council Regulation (EU) No 833/2014 provides for a number of trade restrictions. In particular, Article 5aa prohibits engaging in transactions with certain legal persons, entities or bodies, and Article 5n prohibits the provision of business and management consulting services as well as advisory services to, *inter alia*, legal persons established in Russia. It is an obligation on the existing or potential registrants in REACH to take necessary actions to comply with Council Regulation (EU) No 833/2014.

As far as data sharing is concerned, obtaining permission to refer to data in exchange for cost compensation qualifies as a transaction and it is therefore not permitted when the previous registrant or data owner meets the criteria provided for by letters (a) to (c) of Article 5aa. In this case, the potential registrant should indicate to ECHA that an agreement could not be concluded due to the transaction ban provided for by Council Regulation (EU) No 833/2014. ECHA will then decide whether to grant permission to refer to data. For the case where the potential registrant meets the criteria provided for by letters (a) to (c) of Article 5aa, see Question 6.

Obtaining permission to refer to data from a previous registrant or data owner established in Russia, or from an Only Representative (OR) of a legal entity established in Russia, is not, per se prohibited according to Article 5n. However, as explained in Questions 14 and 15, and subject to the assessment of the NCA, an OR cannot provide business and management consulting services and legal advisory services to a client established in Russia. Subject to the assessment of the NCA, this may prevent an OR from representing a Russian client in data sharing negotiations. In this case, the potential registrant should indicate to ECHA that an agreement is not reachable due to Council Regulation (EU) No

833/2014. ECHA should then decide whether to grant permission to refer to data. For the case where the potential registrant is an OR of a legal entity established in Russia, see Question 7.

In case of doubt, business operators can seek guidance from their National Competent Authorities (NCAs).

See also on this Commission FAQs on Sanctions adopted following Russia's military aggression against Ukraine ('Russia sanctions FAQs'), Section A. Horizontal as well as Circumvention and Due diligence, and Section B. Individual financial measures.

4. **Should the EU members of a communication platform constituted for generating studies or for data sharing purposes, or an Only Representative (OR) comply with EU sanctions?**
   Last update: 1 July 2022

Yes. EU citizens as well as EU business operators incorporated or constituted under the law of a Member State or doing business in full or in part in the EU are required to comply with EU Sanctions (e.g. Article 13 of Council Regulation (EU) No 833/2014). This includes the different types of communication platforms governed by Union or national Law, as well as their members meeting the conditions indicated above and ORs pursuant to Article 8 of the REACH Regulation.

5. **Should I comply with the mandatory data sharing obligations under Articles 25–27 and 30 of the REACH Regulation and related obligations if the potential registrant is a company designated under Council Regulation (EU) No 269/2014, or owned/controlled by a designated person under Council Regulation (EU) No 269/2014?**
   Last update: 24 July 2024

No. As long as the potential registrant is designated under Council Regulation (EU) No 269/2014 or other EU sanctions (or owned/controlled by a designated person), it cannot receive economic resources from those who are required to comply with Article 11 of Council Regulation (EU) No 269/2014. Previous registrants owning the relevant data must refrain from entering data sharing negotiations and granting letters of access to those that are designated or owned/controlled by a designated person. Ongoing negotiations should be suspended as long as the person is designated or owned or controlled by a designated person. Note that derogations and exemptions under Council Regulation (EU) No 269/2014 may apply. It is an obligation of the data owner to comply with EU sanctions; hence, data owners should investigate if the potential registrant is a company designated under Council Regulation (EU) No 269/2014, or owned/controlled by a designated person under Council Regulation (EU) No 269/2014 (see also Question 3).

A data owner that is a designated person or a company owned or controlled by a designated person is still obliged to enter mandatory data sharing negotiations. However, it cannot receive financial benefits from it (e.g. a designated member of the

communication platform cannot receive funds stemming for instance from data sharing agreements and cost sharing as long as it is designated). Costs due to the designated data owner could be kept in an escrow account until the data owner is no longer designated. If a designated company is non-cooperative or requires payment of the share of the costs for access to studies, the potential registrant should indicate to ECHA that an agreement is not reachable due to the asset freeze derived from EU sanctions. ECHA should then decide whether to grant access to the data[63].

On the identification of potential registrants or previous registrants that are designated, or owned or controlled by designated persons, see Question 8.

6. Should I comply with the mandatory data sharing obligations under Articles 25–27 and 30 of the REACH Regulation or related obligations if the potential registrant is a company that meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014?
Last update: 24 July 2024

No. Article 5aa(1) of Council Regulation (EU) No 833/2014 prohibits to directly or indirectly engage in any transaction with:

> (a) a legal person, entity or body established in Russia, which is publically controlled or with over 50 % public ownership or in which Russia, its Government or Central Bank has the right to participate in profits or with which Russia, its Government or Central Bank has other substantial economic relationship, as listed in Annex XIX;
>
> (b) a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIX; or
>
> (c) a legal person, entity or body acting on behalf or at the direction of an entity referred to in point (a) or (b) of this paragraph.

Granting a letter of access in exchange of cost sharing qualifies as a transaction and therefore it is not permitted in the cases mentioned under Article 5aa. Exemptions may apply, in particular Article 5(2).

For the case where the previous registrant or data owner meets the criteria provided for by letters (a) to (c) of Article 5aa, see Question 3. On the identification of potential registrants or previous registrants that are subject to the transaction ban, see Question 8.

[63] While studies for registrations owned by designated persons or by persons owned or controlled by designated persons in principle must be frozen, the Court of Justice has held that '[…] the objective of ensuring animal protection is also pursued by the REACH Regulation, in particular by Article 13(1) and Article 25(1) thereof. According to that latter provision, testing on vertebrate animals for the purposes of that regulation is to be undertaken only as a last resort' (Order of the President of the Court Case T-207/21 R, *Polynt v ECHA* Case T-207/21 R, ECLI:EU:T:2021:382. This is mandatory. As such, ECHA has the possibility to grant access to the vertebrate studies of a designated person, provided that the due costs are not made available to that person as long as he/she/it is designated.

7. Should I comply with the mandatory data sharing obligations under Articles 25–27 and 30 of the REACH Regulation or related obligations if the potential registrant is an OR of a legal entity established in Russia?

Last update: 24 July 2024

Granting a permission to refer to data for the purposes of compliance with the REACH Regulation does not, per se, qualify as one of the prohibited services according to Article 5n of Council Regulation (EU) No 833/2014. However, as explained in Questions 14 and 15 and subject to the assessment of the NCA, an OR cannot provide business and management consulting services and legal advisory services to a client established in Russia, including representing that client in data sharing negotiations. This will effectively prevent the parties from concluding a data sharing agreement, unless an exception from the prohibition established by Article 5n applies.

For cases where the potential registrant is designated under Council Regulation (EU) No 269/2014 or meets the criteria under letters (a) to (c) of Article 5aa of Council Regulation (EU) No 833/2014 see, respectively, Questions 5 and 6.

8. What should I do, as a potential registrant or as a previous registrant, to ensure that my counterpart is not designated under Council Regulation (EU) No 269/2014, owned/controlled by a designated person under Council Regulation (EU) No 269/2014 or does not meet the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014?

Last update: 24 July 2024

It is for the companies that are required to comply with Council Regulation (EU) No 833/2014 and Council Regulation (EU) No 269/2014 as per, respectively Article 13 and Article 17, to decide which due diligence activities to carry out, in the light of the relevant risk assessment. This said, in order to exclude their liability for a sanction breach, a company must be able to demonstrate *they had no reasonable cause to suspect that their actions would infringe the measures set out in* the relevant Regulation (as per e.g. Article 10(2) of Council Regulation (EU) No 269/2014). Subject to the assessment of the NCA, a potential registrant or a previous registrant could not invoke the protection granted by that provision if they failed to carry out sanctions compliance practices, such as contractually agreeing that the counterpart will not breach sanctions in relation to the economic resources provided or requesting a declaration that the counterpart is not listed or subject to sanctions whatsoever.

The responsibility for a sanction breach does not depend on its value or gravity, therefore minor breaches or breaches where the risk of infringement was low (and therefore no or limited due diligence was carried out) do not exclude or limit the liability, unless the absence of reasonable cause of suspicion can be shown. Imposing due diligence checks on the counterpart for the purposes of compliance with sanction legislation appears therefore to be legitimate, even in case of low risk of non-compliance. A case-by-case assessment is warranted to ensure that the request is nevertheless not abusive. The requesting company should also not simply rely on the declaration of the counterpart but should carry out its own verifications. If these verifications cannot confirm the statements

by the other party, and the information is necessary due to a reasonable suspicion of possible infringement of sanctions, the potential registrant or previous registrant will have to refrain from any further co-operation as per the sanction provisions relevant in each case. The above is in line with the *Commission Guidance for EU operators: implementing enhanced due diligence to shield against Russia sanctions circumvention* (page 7)[64], which reads as follows:

> *First of all, especially when exporting goods subject to restrictions, EU operators need to know their counterparts and how reliable they are. They should include, in particular, contractual clauses with their third-country business partners prohibiting further re-exports of the items to Russia and Belarus. For example, such a clause may oblige the importer in third countries not to export the concerned goods to Russia or Belarus, and not to resell the concerned goods to any third party business partner unless that partner commits not to export the concerned goods to Russia or Belarus. It is vital that the contractual clause gives rise to liability and can be enforced under the law applicable to the contract.*
>
> *The clause may also entail ex post verifications, and may be identified an essential element of the contract. See also the notice to operators of 1 April 2022. It is for Member States to implement and enforce sanctions. The European Commission has the role of ensuring uniform implementation throughout the Union and monitoring enforcement by the Member States.*

9. What should communication platforms do if they have entered a data sharing agreement with a company before it was designated or before the company that owns or controls it was designated under Council Regulation (EU) No 269/2014?

Last update: 24 July 2024

Having made funds or economic resources available to a person before it was designated does not qualify as a violation of EU sanctions. However, in general EU sanctions do not allow to continue providing goods and services to a designated person, even under a prior contract. It is for the communication platform to decide which actions are necessary, taking into account its business operations and existing agreements, to ensure compliance with the asset freeze obligation and the prohibition to make funds available to or for the benefit of designated persons. Only the necessary actions to comply with those obligations should be taken (see also Question 21). For instance, a communication platform must make sure, also taking the appropriate contractual measures, that no further funds or economic resources are made available to the designated members (e.g. from further implementation of existing cost-sharing agreement) and, if appropriate, exclude or suspend the relevant company from the Communication platform. See also Question 8.

Communication platforms should remain vigilant and report to NCA information that might be relevant for the implementation of sanctions as provided in Article 8(1)(a) of Council Regulation (EU) No 269/2014. (e.g. circumvention attempts they become aware

[64] https://finance.ec.europa.eu/system/files/2023-12/guidance-eu-operators-russia-sanctions-circumvention_en.pdf

of, such as a listed company making use of a third company to join the platform as a middle person).

10. What should communication platforms do if they have entered a data sharing agreement with a company before it met the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014?
Last update: 24 July 2024

Having engaged in transactions with a company before it met the criteria under letters (a)–(c) of Article 5aa does not violate Council Regulation (EU) No 833/2014. However, communication platforms should not engage in further transactions with those companies. It is for the communication platform to decide which actions are necessary, taking into account its business operations and existing agreements, to ensure compliance with Council Regulation (EU) No 833/2014. This may include to ensure that funds or economic resources including data stemming from existing agreements on cost-sharing or granted letters of access are not made available to that designated member of the platform.

Communication platforms should remain vigilant and report to the NCA information that might be relevant for the implementation of sanctions as provided in Article 6b(1)(a) of Council Regulation (EU) No 833/2014 (e.g. circumvention attempts they become aware, such as a company that met the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014 making use of a third company as a middle person to join the platform).

11. Do data sharing obligations after the submission of a registration dossier under Article 3 of Council Regulation 2019/1692 apply in case the communication platform has granted a letter of access to a company that has become designated or owned/controlled by a designated person, or a company that now meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014?
Last update: 24 July 2024

No. Further data sharing is not possible in this case. Should the lead registrant be a designated entity or owned/controlled by a designated person, or a company that now meets the criteria under letters (a)–(c) of Article 5aa, Council Regulation (EU) No 833/2014, and the communication platform should take action to change its lead registrant. In principle, and subject to the NCA assessment, the actions that are strictly necessary to that end are not, in principle and subject to the assessment of the NCA, prohibited under Article 5n of Council Regulation (EU) No 833/2014. These actions include terminating, suspending or otherwise severing data sharing or joint submission agreements between the lead registrant and other registrants, as well as surrendering the lead registrant's role to another registrant according to procedures made available by ECHA. The NCA may ensure that in that context no other services are provided to those persons. Exceptions might apply (see Question 15).

12. Can I submit a joint registration dossier as a lead registrant if a co-registrant is designated or is owned or controlled by a designated person, is a company that meets the criteria under letters (a)–(c) of Article 5aa of Council

Regulation (EU) No 833/2014, or is an OR of a legal entity established in Russia??

Last update: 24 July 2024

No. Such a sub-submission would entail making economic resources available to a designated person. A lead registrant submitting such a registration dossier would be in violation of Council Regulation (EU) No 269/2014. Moreover, ECHA must freeze REACH registration dossiers as that would be for the benefit of a designated person or a person owned or controlled by a designated person. Similarly, submitting a joint registration dossier would be tantamount to entering a transaction with a company that meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014, which is prohibited by that article. Finally, subject to the assessment of the NCA, such a submission would most likely qualify as an indirect provision of prohibited management and consulting service to a legal entity established in Russia, as per Article 5n(1) of Council Regulation (EU) No 833/2014.

On the submission of registration updates, see also Questions 16 and 17.

13. **As an OR or a Third Party Representative (TPR), can I represent a designated company or a company owned or controlled by a designated person, or a company that meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014, for instance to submit the update to the registration dossier pursuant to Article 22 of the REACH Regulation?**

    Last update: 24 July 2024

No, as this would be tantamount to making resources available to a designated person or entering a transaction prohibited under Article 5aa. Exceptions might however apply.

In principle, and subject to NCA assessment, activities aimed at discontinuing the relationship between the OR or TPR and the represented company are not covered by this prohibition. These include terminating, suspending or otherwise severing contracts in place with that company and surrendering the lead registrant's role to another registrant according to procedures made available by ECHA. Similarly, the mere notification of a cessation of import as provided for by Article 22(1)(c) and 50 of the REACH Regulation or the submission of information about the non-EU entity to ECHA, including for the purposes of Section 1.1.4 of Annex VI of the REACH Regulation, do not constitute a breach of sanctions.

14. **Outside the case discussed under Question 13 of this section of the Russia Sanctions FAQs, as an OR, can I represent a company established in Russia for REACH Regulation-purposes (e.g. submitting, updating or holding a registration or an application for authorisation)?**

    Last update: 24 July 2024

Article 5n(1) of Council Regulation (EU) No 833/2014 prohibits, inter alia, the provision, directly or indirectly, of business and management consulting services to, inter alia, legal persons, entities or bodies established in Russia.

According to the answer to Question 1, Section G.8 (provision of services) of the Russia sanctions FAQs, such prohibition covers business and management consulting and public relations services cover advisory, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, structuring and control of an organisation, management fees, management auditing; market management, human resources, production management and project management consulting; and advisory, guidance and operational services related to improving the image of the clients and their relations with the general public and other institutions are all included.

According to the ECHA Guidance on Registration, Section 2.1.2.5[65]:

> "a natural or legal person established outside the EU, who manufactures a substance, formulates a mixture or produces an article can appoint an only representative to carry out the registration of the substance that is imported"
>
> […]
>
> "The only representative must keep an up-to-date list of EU customers (importers) within the same supply chain of the 'non-EU manufacturer' and the tonnage covered for each of these customers, as well as information on the supply of the latest update of the safety data sheet. The only representative is legally responsible for the registration and should be contacted by importers for any information related to registration in the EU."

Against this backdrop, the activities of ORs for the benefit of legal persons, entities or bodies established in Russia, as described in the ECHA Guidance, appear to fall within the scope of the prohibited services under Article 5n(1), as clarified in Section G.8 of the Russia sanctions FAQs. It is for the OR to assess on a case-by-case basis its specific activities against Article 5n(1) and these FAQs. Since sanctions enforcement is part of the remit of Member States, economic operators can seek further guidance on their specific case to National Competent Authorities.

It is a responsibility of the OR to immediately discontinue the provision of prohibited services. This includes, first and foremost, taking the necessary contractual adjustements. In taking those actions, ORs can rely on Article 11 of Council Regulation (EU) No 833/2014, whereby no claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the measures imposed under such Regulation shall be satisfied, if they are made by, inter alia, any Russian person, entity or body[66]. Note that the transitional period for services

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65 https://echa.europa.eu/documents/10162/23036412/registration_en.pdf/de54853d-e19e-4528-9b34-8680944372f2

66 Article 11 is aimed at protecting those who comply with EU sanctions against claims based on non-performance brought by their trade partners which are mentioned in Article 11. The notion of "claim" should be interpreted broadly in light of the language of Article 11, including but not limited to the types of claims mentioned in the Article. The list of claims expressly mentioned in Article 11 has general and illustrative nature (see case C-168/17, SH v TG, Judgment ECLI:EU:C:2019:36, paras. 71 et seq); the concept of 'claim' shall also be interpreted by analogy in light of the definition given to this term in Council Regulation (EU) No 269/2014 where a similar no claims clause exists. According to Article 1(a) of Council Regulation (EU) No 269/2014, 'claim' includes "a claim for performance of any obligation arising under or in connection with a contract or transaction". In principle, the underlying contract does not probably cease to exist when a restrictive measure precludes compliance with the contractual obligation (this may depend on the applicable national law and the relevant

strictly necessary for the termination of contracts not compliant with these provisions under Article 5n(3) ended on 5 July 2022. Article 5n does however envisage a number of exceptions[67].

In principle, and subject to NCA assessment, activities aimed at discontinuing the relationship between the OR and the company established in Russia are not covered by the prohibition. These include terminating, suspending or otherwise severing contracts in place with that company and, as the case may be, surrendering the lead registrant's role to another registrant according to procedures made available by ECHA. Similarly, the mere notification of a cessation of import as provided for by Articles 22(1)(c) and 50 of the REACH Regulation or the submission of information about the non-EU entity to ECHA, including for the purposes of Section 1.1.4 of Annex VI of the REACH Regulation, is not a service prohibited pursuant to Article 5n of Council Regulation (EU) No 833/2014. The above considerations also apply to TPRs of legal entities acting on behalf of manufacturers established in Russia, for their respective activities as provided for by Article 4 of the REACH Regulation.

15. Do advisory activities for REACH Regulation-related purposes, such as data sharing negotiations, setting up communication platforms, registration dossier submissions or update and application for authorisations, fall within the scope of the prohibition of Article 5n(2) of Council Regulation (EU) No 833/2014, if provided to or on behalf of companies established in Russia or their representatives?

Last update: 24 July 2024

According to the answer to Question 11, Section G.8 (provision of services) of the Russia sanctions FAQs, Art 5n(2) of Council Regulation (EU) No 833/2014 encompasses the provision of legal advice to customers in non-contentious matters, including commercial transactions, involving the application or interpretation of law, participation with or on behalf of clients in commercial transactions, negotiations and other dealings with third parties; and preparation, execution and verification of legal documents.

It is for the economic operator to assess, on a case-by-case basis, which of their activities fall within the scope of the prohibition. This said, and subject to the assessment of the NCA in the specific case, several of the services normally provided by lead registrants, communication platforms and lawyers for REACH Regulation-related purposes such as registration dossier submission or update, application for authorisations, appear to fall within the scope of the prohibition (e.g. drafting of consortium and other agreements, provision of legal advice on REACH and other relevant EU legislation, representing companies established in Russia in the context of data sharing negotiations etc.).

Note that Article 5n provides for carve outs for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy or to ensure access to

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contractual clauses). If the restrictive measures cease to apply, the operator would have to comply with its obligation.

67 Article 5n was inserted in Council Regulation (EU) No 833/2014 by Council Regulation (EU) 2022/2474 of 16 December 2022. The regulation entered into force on 17 December 2022.

judicial, administrative or arbitral proceedings in a Member State, or for the recognition or enforcement of a judgment or an arbitration award rendered in a Member State, provided that such provision of services is consistent with the objectives of Council Regulation (EU) No 833/2014 and of Council Regulation (EU) No 269/2014.

16. Can I submit information under the first paragraph of Article 11 of the REACH Regulation on behalf of a co-registrant that is designated or is owned or controlled by a designated person?
Last update: 24 July 2024

In order to submit joint updates of registration dossiers, the lead registrant should:

- identify the co-registrants that are designated or owned or controlled by a designated person;
- encourage those co-registrants to cease manufacture or import and to notify the cessation to ECHA pursuant to Articles 22(1)(c) and 50 of the REACH Regulation by a given deadline;
- monitor the registration status of the co-registrants in question until the indicated deadline;
- duly inform the NCA of all the above and communicate any other relevant information as per Article 8(1)(a) of Council Regulation (EU) No 269/2014.

This will be the case even if the designated co-registrant does not co-operate with the request of the lead registrant to cease manufacture or import, provided that the NCA has been informed accordingly.

Finally, as a good due diligence practice, the registrants of the substance should also disseminate the relevant information to their supply chain and concerned persons, as appropriate.

It is nonetheless to be recalled that NCAs are exclusively responsible to assess each case of possible breach of sanctions, and economic operators can seek for further guidance from them.[68] Exceptions may apply.

17. Can I submit information under the first paragraph of Article 11 of the REACH Regulation together with a co-registrant that meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014?
Last update: 24 July 2024

In order to submit joint updates of registration dossiers, the lead registrant should:

[68] When assessing responsibility during the submission of a registration dossier update, NCAs and judiciaries in the Member States should take into consideration whether the lead registrant, communication platform managers and co-registrants, as diligent operators, have duly followed the procedures indicated in this FAQ as well as those recommended by ECHA and by the NCAs. In this case, the NCAs and judiciaries in the Member States might consider to limit or exclude the responsibility of the lead registrant, communication platform managers or co-registrants, in line with the provision of Article 10 of Council Regulation (EU) No 269/2014, whereby actions by natural or legal persons, entities or bodies do not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in that Regulation. In particular, this can be the case if a lead registrant cannot exclude the listed co-registrant from the joint submission for the substance.

- identify the co-registrants that meet the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014;
- encourage those co-registrants to cease manufacture or import and to notify the cessation to ECHA pursuant to Articles 22(1)(c) and 50 of the REACH Regulation by a given deadline;
- monitor the registration status of the co-registrants in question until the indicated deadline;
- duly inform the NCA of all the above and communicate any other relevant information as per Article 6b(1) of Council Regulation (EU) No 833/2014.

This will be the case even if the co-registrant that meet the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014 does not co-operate with the request of the lead registrant to cease manufacture or import, provided that the NCA have been informed accordingly.

Finally, as a good due diligence practice, the registrants of the substance should also disseminate the relevant information to their supply chain and concerned persons, as appropriate.

It is nonetheless to be recalled that NCAs are exclusively responsible to assess each case of possible breach of sanctions, and economic operators can seek for further guidance from them.[69] Exceptions may apply.

18. As an OR of a legal entity established in Russia, should I submit or make information available to ECHA or to any competent authority of the Member State in which I am established, if requested to do so pursuant to Article 36 of the REACH Regulation?
Last update: 24 July 2024

Yes. Article 36 provides that any manufacturer or importer must assemble and keep available all the required information to carry out his or her duties under the REACH Regulation for at least 10 years after the end of manufacture or import. Requests to provide this information are addressed to the OR in their individual capacity, and, in principle and subject to NCA assessment, their fulfilment is permitted under para 6 of Article 5n Council Regulation (EU) No 833/2014.

19. I have received a request to submit information to ECHA to support my self-declaration as a SME, for the purposes of the determination of a fee under the REACH Regulation. As an OR of a legal entity established in Russia, can I fulfil this request?

[69] When assessing responsibility during the submission of a registration dossier update, NCAs and judiciaries in the Member States should take into consideration whether the lead registrant, communication platform managers and co-registrants, as diligent operators, have duly followed the procedures indicated in this FAQ as well as those recommended by ECHA and by the NCAs. In this case, the NCAs and judiciaries in the Member States might consider to limit or exclude the responsibility of the lead registrant, communication platform managers or co-registrants, in line with the provision of Article 10 of Council Regulation (EU) No 833/2014, whereby actions by natural or legal persons, entities or bodies do not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in that Regulation. In particular, this can be the case if a lead registrant cannot exclude the listed co-registrant from the joint submission for the substance.

Last update: 24 July 2024

Yes. In principle, and subject to the NCA assessment, the prohibition to provide business and management consulting services and legal advisory services to legal entities established in Russia does not entail restrictions that prevent or prohibit economic operators from co-operating with ECHA in the context of verifications of their SME status. This includes making information in their possession available to ECHA and, if necessary, seeking further information from the legal entity they represent. ECHA's verification is based on Commission Regulation (EC) No 340/2008, and a failure to provide evidence supporting a previous declaration on the company size may result in the obligation to pay an additional fee or administrative charge.

The verification of the eligibility of economic operators to fee reductions is also carried out retrospectively, so the above considerations also apply to ORs who terminated or suspended their services to the legal entity established in Russia.

20. As an OR of a legal entity established in Russia, should I pay my outstanding ECHA invoices originating from activities I performed in the interest of my client?

Last update: 24 July 2024

Yes. In principle, and subject to the NCA assessment, invoices issued by ECHA are based on the REACH Regulation, Commission Regulation (EC) No 340/2008 and the other legislation governing the financial management of the Agency. These are independent from any service agreement between the OR and his or her client. The prohibition to provide certain services to legal entities established in Russia, pursuant to Article 5n of Council Regulation (EU) No 833/2014, does not exempt economic operators from settling their own debts with third parties, including when they arose from the submission of registrations or applications in the interest of a legal entity established in Russia.

When the OR already terminated or suspended their contractual relationship with the legal entity established in Russia, it is left to the addressee of the invoice to recover the payment from their former client, based on any indemnity clause or similar arrangements applicable in each case.

21. How can I protect myself from claims from a potential registrant that is designated or owned or controlled by a designated person regarding the fact that I refused to enter negotiations under Article 25–27 and 30 of the REACH Regulation with it or from other actions I have taken to comply with EU sanctions?

Last update: 1 July 2022

All Council Regulations establishing EU sanctions envisage a standard provision which shields those required to comply with EU sanctions from claims from third parties for those very actions. By way of example, Article 11(1) of Council Regulation (EU) 269/2014 reads: '*No claims in connection with any contract or transaction the performance of which has been affected, directly or indirectly, in whole or in part, by the*

measures imposed under this Regulation, including claims for indemnity or any other claim of this type, such as a claim for compensation or a claim under a guarantee, particularly a claim for extension or payment of a bond, guarantee or indemnity, particularly a financial guarantee or financial indemnity, of whatever form, shall be satisfied, if they are made by: (a) designated natural or legal persons, entities or bodies listed in Annex I; (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 point (a).'

Article 11(1)(a)–(b) of Council Regulation (EU) No 833/2014 mirrors the above provision of Council Regulation (EU).

22. As an EU company, can I provide my scientific data to a company in a third country, knowing that those data could be forcibly shared by the local authority to persons listed under Annex I to Council Regulation (EU) No 269/2014, or owned or controlled by them?
Last update: 24 July 2024

No. Article 10 of Council Regulation (EU) No 833/2014 establishes that actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in that Regulation. If the EU company has reasonable cause to suspect that the data can be shared with a listed company, they should not be provided to a company in a third country, even if that is one of its subsidiaries. This can happen for instance if the third country is not aligned with EU sanctions and it has implemented REACH Regulation-type legislation.

23. Can I grant a letter of access to a company in Russia or in another third country for the manufacturing of chemicals included in Annex VII of Council Regulation (EU) No 833/2014 which are intended to be exported in Russia or to be used in Russia.
Last update: 24 July 2024

No. Council Regulation (EU) 2023/1214 of 23 June 2023 ("11th sanctions package") adding Article 2a(2)(c) to Regulation (EU) No 833/2014 includes the prohibition to provide financing or financial assistance related to the goods and technology referred to in paragraph 1 (Annex VII goods and technology) for any sale, supply, transfer or export of those goods and technology, or for the provision of related technical assistance, brokering services or other services, directly or indirectly to any natural or legal person, entity or body in Russia, or for use in Russia. In essence, this Article prohibits the transfer of rights over scientific data to de-localise production of restricted chemicals to third countries, where those chemicals are intended for Russia.

24. Can I import substances from a legal person, entity or body that meets the criteria under letters (a)–(c) of Article 5aa(1) of Council Regulation (EU) No 833/2014, if that is necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers?

Last update: 9 December 2022

Yes. Council Regulation (EU) 2022/1269 of 21 July 2022 amended Council Regulation (EU) No 833/2014 to include an exemption under Article 5aa(3)(f) allowing transactions with legal persons, entities and bodies that meet the criteria under letters (a)–(c) of Article 5aa(1) provided that such transactions are necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers. This is under the condition that the underlying trade in goods is not otherwise restricted under Council Regulation (EU) No 833/2014[70].

Since the provision in Article 5aa(3)(f) qualifies as an exemption, the importer or the OR is not required to obtain the authorisation of the NCA before importing the substance. However, if the substance is imported or used, even by distributors or downstream users, for other purposes than those contemplated under Article 5aa(3)(f), the importer or the OR can be considered liable for the infringement of Article 5aa by the NCA. It is for the importer or the OR to take the necessary actions in order to ensure that the uses by the distributors or downstream users are in line with the purposes indicated in Article 5aa(3)(f); this may include, among others, providing a notice/information to the latter notably on the scope of the uses permitted under Article 5aa(3)(f), including contractual arrangements in the relevant distribution agreements and having a monitoring/tracking system in place. Since Article 5aa(1) prohibits directly or indirectly engaging in any transaction with legal persons, entities and/or bodies that meet the criteria under letters (a)–(c), the relevant NCA can consider distributors or downstream users as in breach of such provision as well.

The importer or the OR should also take the necessary actions to ensure that its REACH registration is in line with the permitted uses (e.g. update the uses or discontinue the import of the substances for non-permitted uses and update the substance volume).

25. Are REACH registrations and authorisations economic resources to be reported to the NCA pursuant to Article 9(2) of Council Regulation (EU) No 269/2014?

Last update: 24 July 2024

Yes. Article 9(2) of Council Regulation (EU) No 269/2014 establishes that listed persons must report, before 1 September 2022 or within 6 weeks from the date of listing in Annex I, whichever is latest, funds or economic resources within the jurisdiction of a Member State belonging to, owned, held or controlled by them, to the competent authority of the Member State where those funds or economic resources are located and cooperate with the competent authority in any verification of such information. REACH registrations should be considered located in Finland, as held by ECHA in Helsinki. REACH Authorisations should be considered located in Belgium, as granted by the Commission. Listed persons and persons owned or controlled by them should therefore report them to the Finnish and Belgian National Competent Authority. The latter is to transmit that information to the Commission, as per Article 9(4).

[70] By way of example, see the restrictions under Article 3i of Council Regulation (EU) No 833/2014 concerning certain chemical substances included in Annex XXI.

26. Can I purchase substances from a company designated or owned/controlled under Council Regulation (EU) No 269/2014, or from a legal person, entity or a legal person, entity or body that meets the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014, if that company holds a REACH registration?

Last update: 9 December 2022

No. It is prohibited to provide funds or economic resources to designated persons, even indirectly, or engage in transactions with companies that meet the criteria under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014. Exceptions might however apply (see also Question 24).

12. INTELLECTUAL PROPERTY RIGHTS

RELATED PROVISION: COUNCIL REGULATION 269/2014

A. General questions

1. Do EU sanctions provided for in Council Regulation (EU) No 269/2014 apply to intellectual property rights?

Last update: 8 September 2022

EU sanctions apply to intellectual property rights (e.g. trademarks, designs, patents, plant variety rights; collectively IPRs). Under Council Regulation (EU) No 269/2014, the EU has designated a number of individuals and legal persons as subject to sanctions.

Being a "designated person" means that all funds and economic resources, directly or indirectly belonging to, held or controlled by a designated person must be frozen. In practice, any EU legal and private person and EU Member State's public institution doing business in the EU must prevent any transfer of, alteration of, access to, use of or other dealings with those funds or economic resources.

The freezing of economic resources of a designated person means that any asset of a designated person, whether tangible or intangible, cannot be used by anyone to obtain other funds or assets. IPRs can qualify as intangible 'economic resources'. Hence, they are also subject to this restriction.

This means that public institutions (e.g. a trademark register) must not enable the use of IPRs of a designated person, or of a person owned or controlled by a designated person (e.g. no IPR property transfer should be registered).

EU sanctions also prohibit making further funds or economic resources available to designated persons or persons owned/controlled by them. By way of example, this means that in principle no further transactions with those persons are possible as of the moment of the application of the prohibition (e.g. payment of license fees for an IPR by an EU person to a designated person) (see however in this respect Question 5 and 8).

By the same token, EU economic operators should not make IPRs available to designated persons (e.g. by means of licensing agreements).

2. Should EU and Member State intellectual property offices suspend the registration or the registration of transfer of IPRs held by persons and entities designated under Annex I to Council Regulation (EU) 269/2014?

Last update: 21 March 2023

Economic resources of persons and entities designated under Annex I to Council Regulation (EU) 269/2014 (designated persons) must be frozen. The use of economic resources to obtain funds, goods or services in any way must be prevented. Moreover, it is prohibited to make available economic resources to or for the benefit of designated

persons.

This means, inter alia, that EU and Member States intellectual property offices must not grant a new registration for an IPR, whose application has already been submitted before the designation, and they must not register transfers of already granted IPRs, if they belong to a designated person or entity or if they belong to persons owned or controlled by designated persons or entities. This is because, if the designated person/entity is deemed to own or control a non-designated entity, it can be presumed that the control also extends to the assets of that entity, and that any funds or economic resources made available to that entity would reach the designated person. The assessment of control is to be made on a case-by-case basis. See on this the FAQs on Russia sanctions concerning Asset freezes and the prohibition to make funds and economic resources available. See on this also FAQs, Section B. Individual Financial Measures. See also Question 3.

3. **Should applications for registration of new IPRs by persons listed in Annex I to Council Regulation (EU) No 269/2014, or persons owned or controlled by them, be accepted by intellectual property offices?**
   Last update: 5 November 2024

No. Applications for registrations of new IPRs entail the creation of new rights for the benefit of the applicant. Hence, they qualify as making economic resources available to listed persons, or persons owned/controlled by them. As such, they should be rejected. See also Answer 20, part "Article 5s" of this section.

4. **How can EU and Member States intellectual property offices verify whether an IPR applicant/owner, or a party in opposition or invalidity proceedings is designated under Annex I to Council Regulation 269/2014?**
   Last update: 8 September 2022

EU and Member States intellectual property offices are subject to the same obligations concerning compliance with sanctions than any other individual and legal persons that fall under the scope of application of Article 17, Council Regulation 269/2014.

In respect to what sanctions compliance entails, see this FAQs Section A.2. Circumvention and Due Diligence, in particular questions 1, 2 and 4. EU and Member State intellectual property offices should first and foremost verify the names of owners/applicants of IPR, as well as applicants in opposition or invalidity proceedings, against the entries in Annex I to Council Regulation 269/2014; a non-official consolidated list of those entries is also available on the EU sanctions map[71] and in the financial sanctions database[72].

EU and Member State intellectual property offices should also ensure that owners and applicants of IPRs as well as applicants in opposition or invalidity proceedings are not

[71] https://www.sanctionsmap.eu/#. For the list, it is necessary to click on the map on Ukraine, and tick the box Lists of persons, entities and items.

[72] https://webgate.ec.europa.eu/fsd/fsf#!/files

owned or controlled by persons and entities in Annex I to Council Regulation 269/2014. In this case, EU and national Member State Offices should not rely solely on the information submitted by the IPR applicant/owner or party in the afore-said proceedings (see Section B.1 Asset freeze and prohibition to make funds and economic resources available). Rather, they should do further investigations in the public domain and in relevant registries (see this FAQs, Section A.2. Circumvention and Due Diligence, question 2).

EU and Member State intellectual property offices can also seek the advice and support of the relevant National Competent Authority ("NCA") (e.g. the NCA in the Member State where the intellectual property office is based) when they are unable to verify whether a legal persons is owned or controlled by a designated person.

5. **Should EU and Member State intellectual property offices remove from their online databases (e.g. TMView, DesignView, etc.) the entries of IPRs held by persons and entities designated under Annex I to Council Regulation (EU) 269/2014? If so, what would be the adequate cut-off date and should they remove from the databases IPRs of non-designated Russian or Belorussian persons?**
   Last update: 26 April 2022

The asset freeze and the prohibition to make funds available apply as of the date of entry into force of the Council Implementing Regulation including the person or entity in Annex I to Council Regulation 269/2014. Please note that the list in Annex I is a dynamic one; persons and entities are included and removed periodically. The updated list and the relevant date of entry into force can be consulted in the Annex I to the non-official consolidated versions of Council Regulation (EU) 269/2014 in the section Ukraine of the EU sanctions map, available at the following hyperlink: https://www.sanctionsmap.eu/

EU and Member States' intellectual property offices can display a reference/sign/indication that a given Russian and Belorussian mark, related to Annex I designated persons and entities as well as person and entities owned or controlled by them, is frozen due to the EU sanctions. This means that a frozen mark should still be displayed in the online IPR databases used by EU and Member States' intellectual property offices.

6. **With regard to applications for IPR registration filed by designated persons or entities before the date of inclusion in Annex I to Council Regulation 269/2014, should EU and Member State intellectual property offices complete the examination phase and not register the IPR, or should the examination phase be suspended immediately? In the case of patents, can the search report and written opinion be forwarded to the applicant? In the case of trademarks, is it possible to publish trademark applications for the purpose of opposition proceedings?**
   Last update: 21 March 2023

Once the IPR applicant is identified as one of the sanctioned individuals or entities listed in Annex I of Council Regulation (EU) No 269/2014, all steps of the procedure of the examination should be immediately suspended to guarantee that no economic resources are made available to, or for the benefit or persons or entity and the type of IPR involved (patent, trademark, etc.).

This is to prevent that through an IPR application the designated individual or entity obtains funds or economic resources (goods or services or any other intangible asset). Patents search reports and written opinions must not be forwarded to the applicant. Publication of trademarks applications should be withheld as long as the applicant is designated or owned/controlled by a designated person. See also Question 3 regarding applications for IPRs filed after the person has been designated.

For already registered IP rights, EU and Member States' intellectual property offices can display a reference/sign/indication that a given application by a designated person or entities as well as persons and entities owned or controlled by them, is frozen pursuant to the EU sanctions (see question 4).

7. **Should EU and Member State intellectual property offices suspend requests from designated entities/persons for formal modifications, e.g., change of address of an IPR owner or change of name of its representative?**
   Last update: 8 September 2022

If such requests can be considered as use in the sense of Article 1(e) of Regulation (EU) No 269/2014, i.e. aiming at obtaining funds, goods or services, in any way, they should be suspended.

8. **Should EU and Member State intellectual property office suspend the renewal of, invalidate or revoke registered IPRs owned or controlled by persons and entities designated under Annex I to Council Regulation (EU) 269/2014?**
   Last update: 21 March 2023

IPRs can be renewed, provided they remain frozen (see Question 1). They do not have to be invalidated or revoked, unless so required according to the procedures provided for in the EU or Member State law (e.g. cancellation procedure under Article 29 of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 (EU Trademark Regulation). See also Question 8.

9. **Could EU and Member State intellectual property offices continue to receive payments of fees from designated persons or entities or persons/entities owned or controlled by designated persons, with regard to suspended proceedings? Should renewal fees be accepted?**
Last update: 8 September 2022

According to Article 2(1) of Council Regulation (EU) No 269/2014, all funds and economic resources of designated persons and entities must be frozen and no funds or economic resources can be made available to them or for their benefit.

However, Council Regulation (EU) No 269/2014 provides for exceptions to these obligations. For instance, NCAs are allowed to authorise the release of frozen funds or the provision of funds or economic resource if they are necessary to satisfy the basic needs of natural or legal persons (Article 4(1)(a)) or intended exclusively for payment of fees or service charges for routine holding or maintenance of economic resources (Articles 4(1)(c)).

In practice, the designated owner of an IPR could consider applying pursuant to the above provisions, if the conditions are met, to the relevant NCA, to allow the release of funds that have been frozen by a bank in a Member State to pay the renewal fees, and allow the EU or Member State IP office to register the renewal. In this context, it has to be noted that sanctions are not punitive; the purpose of sanctions is not to deprive the designated person of its rights. If an IPR is not renewed, the owner would lose its rights on it.

Hence, if the conditions are met and subject to the discretion of the NCA, a derogation under Article 4(1)(a) or (c), lodged for the purpose of renewing a frozen IPR appears legitimate. As noted, it is the person interested in the renewal that should apply for the derogation (i.e. the designated person).

The application should be filed with the NCA with which there are the closest links (e.g. the NCA in the Member State where the IP office is based). In the interest of the economy of the proceedings, in the same decision granting a derogation, the NCA could (i) authorise the bank in a Member State to release the frozen funds of the designated person necessary to pay the renewal fees and (ii) the EU or Member State IP office to renew the IPR.

10. **How should EU and Member State intellectual property offices process requests for extension of deadlines from designated entities/persons?**
Last update: 8 September 2022

Requests from designated entities/persons for extension of deadlines should only be accepted if the related procedure for which the extension is sought is necessary to preserve an IPR or an application for an IPR.

11. **Does it make a difference whether the IPRs was applied for or registered on the basis of EU secondary law (e.g. Trade Mark Regulation) or through**

international agreements (e.g. Madrid trade mark registration system, European Patent Convention, Patent Cooperation Treaty)?
Last update: 26 April 2022

No, it does not make any difference. IPRs included in registers of EU and Member State intellectual property offices must be frozen.

12. How should an EU or Member State intellectual property office proceed in case a designated entity/person files an application for an international trademark (Madrid Protocol) through the International Bureau of the World Intellectual Property Organisation?
Last update: 5 November 2024

If the intellectual property office only freezes the proceedings with the application, then within 12 months (or within the extended period of 18 months) the trademark will become valid in its territory. As a result, the intellectual property office should refuse to grant protection within the time period applying under Art 5(2) of the Madrid Protocol. See also Answer 6, part "Article 5s" of this FAQs section.

13. Could frozen IPRs still be enforced before EU courts?
Last update: 8 September 2022

Enforcing IPRs before EU courts should be permitted, insofar as the judicial proceeding is necessary to preserve the right. Restrictions concerning the asset freeze and the prohibition to make funds available to designated persons remain applicable.

14. Could a designated persons or entity initiate, participate in or continue opposition/invalidity procedures, acting as applicant?
Last update: 21 March 2023

EU and Member States intellectual property offices should suspend the initiation of new opposition procedures by a designated person or entity, the participation therein or the continuation of pending opposition/invalidity proceeding, unless these proceedings are necessary to preserve an already granted right[73].

However, a distinction should be made between opposition and invalidity proceedings. EU and Member States intellectual property offices should not suspend the registration of the IPR of other than designated persons after the application has been filed and an opposition has been launched by a designated person; if, at the end of the timeframe for filing an opposition, the opposition procedure cannot be resumed (i.e. because the designated opponent has not be de-listed), the EU or Member States intellectual property office should proceed with the registration. This is because the non-designated applicant for an IPR registration should not bear the consequence of the designation of the

[73] That could be the case for instance if the EU and Member States intellectual property offices believe that the registration of the IPR applied for will lead to dilution of listed-person' IPR.

opponent that would stem from keeping the registration of the IPR suspended until the opposition proceedings can be resumed.

Invalidity proceedings lodged by a designated person should remain suspended as long as the person is designated.

15. Could a designated person or entity defend its right against in opposition proceedings?
Last update: 8 September 2022

Defending an IPR against an opposition should be permitted, to the extent necessary to preserve the right. Restrictions concerning the asset freeze and the prohibition to make funds available to designated persons remain applicable. This for instance could apply in the case of patents, in which case opposition takes place once the registration is granted.

16. Would EU persons breach the obligations envisaged in Council Regulation (EU) 269/2014 if they continue paying renewal fees for trademarks, patents or other IPRs registered to the Russian and Belorussian intellectual property offices?
Last update: 26 April 2022

The restrictions provided for in Council Regulation (EU) 269/2014 only apply to persons and entities included in Annex I to Council Regulation 269/2014, as well persons and entities owned or controlled by them. As long as the Russian and Belorussian intellectual property offices are not designated and they are not controlled by a designated person, they are not subject to the restrictions provided for in Council Regulation (EU) 269/2014, in which case EU persons are allowed to continue paying renewal fees for trademarks, patents or other IPRs registered to the Russian and Belorussian intellectual property offices.

17. How should "payments" received by EU IP law firms to lodge/represent a Russian or Belorussian IPR's owner be treated? Does it make a difference if the IPR's owner is designated under Annex I to Council Regulation (EU) 269/2014? Should the EU and Member State intellectual property office refuse fee payments for registration or renewal?
Last update: 21 March 2023

Council Regulation (EU) No 269/2014 prohibits EU operators from making any funds or economic resources available to persons designated under Annex I to it, directly or indirectly. In principle, and by way of example, an EU business is not allowed to sell or deliver products or services to those persons, even if in exchange for adequate payment. There are a number of exceptions (derogations) to this prohibition, including for prior contracts where a payment by a listed person is due under a contract or agreement concluded, or an obligation that arose before the date on which that person was included in Annex I, and provided that the funds or economic resources will be used for a payment by the designated person and that the payment is not made to or for the benefit of a

designated person (Article 6). However, this is subject to prior authorisation by the relevant national competent authority. The contact details of Member State competent authorities are included in Annex I to Council Regulation No 269/2014.

As already mentioned, in principle persons non-designated or non-owned/controlled by designated persons are not subject to asset freeze restrictions. However, the Russian government and legal persons established in Russia are subject to relevant sectoral restrictions. Article 5n(1) of Council Regulation 833/2014, which was introduced on 3 June 2022[74], prohibits, inter alia, the provision, directly or indirectly, of business and management consulting services to legal persons, entities or bodies established in Russia. According to the answer to Question 1, Section G.8 (provision of services) of this Russia sanctions FAQs, such prohibition covers management consulting, guidance and operational assistance services provided to businesses for business policy and strategy and the overall planning, market management and project management consulting, advisory. It is for the economic operator to assess, on a case-by-case basis, if its representation services fall within the scope of the restriction. If that is the case, the EU representative of legal persons, entities or bodies established in Russia should discontinue its services. Since sanctions enforcement is part of the remit of Member States, economic operators can seek further guidance on their specific case to National Competent Authorities.

18. Is the provision of legal advisory services to Russian companies for the purpose of assisting in administrative or judiciary court proceedings on IPRs permitted pursuant to Article 5n(6) of Council Regulation (EU) 833/2014?

Last update: 21 March 2023

The provision of legal advisory services to Russian companies is permitted under Article 5n(6) of Council Regulation (EU) 833/2014 if this is strictly necessary to ensure the access to judicial proceedings, as well as administrative proceedings such as those initiated or pending before the EUIPO, EPO or Member States' Intellectual Property Offices, under the conditions indicated in this Section and Section G.8, Provision of Services.

19. Is the sale, licensing or transfer in any other way of IPRs or trade secrets as well as granting rights to access or re-use any material or information protected by means of IPRs or constituting trade secrets allowed for the use in relation to goods or technology that are subject to certain restrictions under Council Regulation 833/2014?

Last update: 6 July 2023

[74] Council Regulation (EU) 2022/879 of 3 June 2022 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

No, unless an exception applies. Articles 2(2)(c), 2a(2)(c), 2aa(2)(c), 3(2)(c), 3b(2)(c), 3c(4)(c), 3f(2)(c), 3h(2)(c) and 3k(2)(c) of Council Regulation 833/2014 prohibit the sale, licensing or transfer in any other way of IPRs or trade secrets as well as granting rights to access or re-use any material or information protected by means of IPRs or constituting trade secrets, if used in relation to goods and technology referred to in those Articles.

These restrictions apply irrespective of whether the IPR or the trade secret is registered before an intellectual property office in the EU, in a Member State or in a third country or otherwise protected under EU law, a Member State's law or a third country's law. This is because the sale, licensing or transfer in any other way, as well as the granting of rights to access or re-use *per se* is prohibited.

Similarly, the above also applies in cases of IPRs or trade secrets being sold, licensed or transferred in any other way, as well as rights being granted access or re-use them outside the territory of the EU or being granted to a person who is not required to comply with Council Regulation 833/2014 as per Article 13[75], whenever that is related to the relevant goods and technology and to the provision, manufacture, maintenance and use of those goods and technology, directly or indirectly to any natural or legal person, entity or body in Russia or for use in Russia.

By way of example, the restrictions at hand encompass the following situations:

- selling trade marks or patents[76] as well as sharing a trade secret with a third country operator while knowing, suspecting or accepting the risk[77] that those IPRs or trade secrets will be used to manufacture restricted goods destined for Russia or to be affixed on restricted technology or goods that will be exported to Russia;

- granting access to data covered by copyright to obtain regulatory registrations or any other licenses, including in third countries, to manufacture restricted technology or goods which will be used in Russia[78].

The terms 'intellectual property rights' in Articles 2(2)(c), 2a(2)(c), 2aa(2)(c), 3(2)(c), 3b(2)(c), 3c(4)(c), 3f(2)(c), 3h(2)(c), 3k(2)(c), Council Regulation 833/2014 must be understood in a broad sense, in particular encompassing trademarks, designs, patents, copyrights, or utility models.

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6 By way of example, that is the case of a company incorporated under the law of a third country, which trades the goods/technology entirely outside the EU territory.

76 Depending on the circumstances, licensing of patents can also qualify as provision of technical assistance.

77 See also FAQ 20 in this section.

78 This can be the case of grating rights to refer to IPRs over scientific studies that allow the beneficiary to obtain regulatory permissions to manufacture chemicals included in Annex VII, Council Regulation 833/2014, which will be exported to Russia. By way of example, this can occur in third countries which have legislation mirroring Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

The terms 'trade secrets' in Articles 2(2)(c), 2a(2)(c), 2aa(2)(c), 3(2)(c), 3b(2)(c), 3c(4)(c), 3f(2)(c), 3h(2)(c), 3k(2)(c) of Council Regulation 833/2014 must be understood as per the definition of Article 2(1) of Directive (EU) 2016/943. In essence, trade secrets are valuable pieces of information for an enterprise that is treated as confidential and that gives that enterprise a competitive advantage because it is secret. That includes a wide range of know-how and business information, such as early-stage inventions, manufacturing processes, precise tonnages manufactured, links between manufacturers or importers and their distributors or downstream users including lists of suppliers and clients, the precise use, function or application of a chemical, details of full compositions of mixtures (recipes or chemical compounds), insofar as the criteria of Article 2(1) of Directive (EU) 2016/943 are met.

Subsidiaries of EU parent companies incorporated under the law of a third country are not bound by the restriction at hand. However, EU parent companies cannot use those subsidiaries to circumvent the obligations that apply to the EU parent, for instance by transferring IPRs to them so that they can transfer them in violation of the aforementioned provisions.

Last, it is to be noted that Article 10 of Council Regulation 833/2014 establishes that actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part, if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in that Regulation.

20. What is the responsibility of a person required to comply with Articles 2(2)(c), 2a(2)(c), 2aa(2)(c), 3(2)(c), 3b(2)(c), 3c(4)(c), 3f(2)(c), 3h(2)(c), 3k(2)(c) of Council Regulation 833/2014 if the buyer, the licensee or the person that whatsoever benefits from/received the relevant IPRs or trade secrets, uses them on goods or technology in breach of Council Regulation (EU) 833/2014?
Last update: 6 July 2023

According to Answer to Q.24, Section D.2 of the Russia Sanctions FAQs "it is for the EU Company to ensure that the provision of services in question is not related to the sanctioned good or to the provision, manufacture, maintenance and use of this sanctioned good."

In the event that a company required to comply with Council Regulation (EU) 833/2014 as per Article 13 thereof ('obliged person'), sells, licenses or transfers in any other way IPRs or trade secrets, or grants rights to access or re-use any material or information protected by means of IPRs or constituting trade secrets to a person, including in a third country, that uses them in relation to goods or technology sold, transferred, exported or supplied in breach of Council Regulation (EU) 833/2014, the relevant NCA should assess the company's responsibility in lights of Article 10 of Council Regulation (EU) 833/2014, whereby actions by natural or legal persons, entities or bodies shall not give rise to liability of any kind on their part if they did not know, and had no reasonable cause to suspect, that their actions would infringe the measures set out in this Regulation. This entails that the obliged person has to take appropriate actions to ensure that the buyer, the licensee or the persons that whatsoever benefits from/received the relevant IPRs or trade secrets will not use them in relation to the restricted goods or technology for prohibited actions. This *may* include contractual arrangements, verifications on the

use of the IPRs or trade secrets by the licensee, investigations and due diligence on the reliability of the latter (including online). It is for the obliged person to assess whether and what type of due diligence is necessary on the basis of the risk assessment and risk management (e.g. high risk or low risk that the licensee might, willingly or negligently use the IPRs or trade secrets in breach of Council Regulation (EU) 833/2014). The obliged person must also comply with Article 12 of Council Regulation (EU) No 833/2014, which provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions of that Regulation. See also section A.2 of these FAQs, Circumvention and Due Diligence.

21. What is the impact of Article 5aa of Council Regulation 833/2014 on IPRs and IPR holders?

Last update: 21 March 2023

First and foremost, see in this respect Section G.5 of these Russia Sanctions FAQs. Article 5aa prohibits to directly or indirectly engage in any transaction with:

- a legal person, entity or body established in Russia, which is publicly controlled or with over 50 % public ownership, or in which Russia, its Government or Central Bank has the right to participate in profits, or with which Russia, its Government or Central Bank has other substantial economic relationship, as listed in Annex XIX;
- a legal person, entity or body established outside the Union whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIX; or
- a legal person, entity or body acting on behalf or at the direction of an entity referred to in point (a) or (b) of this paragraph.

The term *transactions* must be interpreted broadly and encompasses the prohibition to engage in any trade with the targeted persons, such as paying licensing fees and grant new or renewal of licences of IPRs. It also prohibits for intellectual property offices to accept new applications, register transfer of property or licenses, register new IPRs, accept any applications for cancellation or opposition.

22. Can applications for Geographical Indications (GIs) be granted if one or more applicants are designated under Annex I to Council Regulation (EU) No 269/2014 or owned/controlled by them?

Last update: 21 March 2023

No. As confirmed by the Court's recent case law (judgment of 14 July 2022, *Commission v Denmark,* Case C-159/20, ECLI:EU:C:2022:561, paragraph 54), protected designations of origin (PDOs) and protected geographical indications (PGIs) are protected as an intellectual property right by the relevant EU legislation, according to which a scheme for PDOs and PGIs is established in order to help producers of products linked to a geographical area by ensuring uniform protection of the names as an intellectual property right in the territory of the European Union.

The Advocate General has clarified that geographical names (PDOs and PGIs) are industrial property rights, even if they are covered by sui generis rules, of which the

public-law aspects prevail over the private-law aspects; he also added that GIs confer exclusive rights on the proprietor, even if not individual (Opinion of 17 September 2020, *Syndicat interprofessionnel de défense du fromage Morbier V Société Fromagère du Livradois SAS*, Case C-490/19, ECLI:EU:C:2020:730, paragraph 29).

It follows from that that even if GIs are linked to a specific geographic area rather than a producer, a successful GI application would bring about an economic advantage and financial benefit to the person or entity applying for it.

This would thus violate the prohibition to make funds and economic resources available, directly or indirectly, to or for the benefit of designated natural or legal persons, entities or bodies, or those associated with them, as specified in Article 2(2) of Council Regulation (EU) No 269/2014.

Hence, GI applied for by persons designated in Annex I to Council Regulation (EU) No 269/2014 cannot be granted. In this vein, pending applications in that case should be frozen (e.g. suspended).

B. Article 5s of Council Regulation (EU) 833/2014

B.1 Overview

1. What does the obligation enshrined in Article 5s of Council Regulation (EU) 833/2014 entail?
Last update: 5 November 2024

In essence, Article 5s(1)(a) and (b) of Council Regulation (EU) 833/2014, as introduced by Council Regulation (EU) 2024/1745 of 24 June 2024 (i.e. fourteenth package of the Russia sanctions, hereinafter 'Article 5s') requires the Commission, the European Union Intellectual Property Office ('EUIPO') and Member States Intellectual Property Offices ('NIPOs') to not accept new applications for registration, or any requests or submission filed during the registration procedure of certain Intellectual Property Rights (IPRs), if the applicant or requestor is a Russian legal or natural person or is a natural person resident in Russia ('Target Person'). Certain persons are exempted from this restriction, as defined in Article 5s(5). Not accepting applications, requests, submissions does not entail the obligation to issue a formal decision of refusal. The applicant or requestor can re-submit the application, request or submission should Article 5s be repealed[79].

2. Why has the European Union adopted Article 5s?
Last update: 5 November 2024

This new obligation comes in response to the illegitimate actions undertaken by the Russian Government and courts to deprive Member State intellectual property rights holders of their protection in Russia, which has resulted in an undue competitive

[79] See Recital 20 of Council Regulation (EU) 2024/1745 of 24 June 2024.

advantage for the Russian industry and contributed to Russia's revenues, further enabling it to wage its war of aggression in Ukraine[80].

In particular, first, on 6 March 2022 Russia amended Article 1360 of the Russian Civil Code to enable its authorities to license patents of Union companies to Russian businesses, without the obligation to compensate the former. This means that Russian companies can infringe patents and related IPRs of Union companies without consequences.

Second, on 29 March 2022 Russia introduced a parallel import mechanism to allow its companies to procure certain goods and services from other third country markets without the consent of the Union trademark holder. Concerned goods are mostly those in short supply in Russia due to the exit of Union companies from the market or sanctions. The Russian Government claimed that this mechanism should have been made permanent[81].

Third, Russia recently adopted legislation whereby transactions concerning certain IPRs of Union companies in Russia need to be authorised by the Russia Government, which may entail *de facto* prohibition of Union companies e.g., from reshoring industrial know-how[82].

Fourth, it is known that Russian courts have illegitimately deprived protection of IPR holders from the Union[83].

3. What does Article 5s entail for Member State businesses?

Last update: 5 November 2024

In principle, Article 5s does not require businesses to undertake specific actions. The prohibition laid down in Article 5s is to be implemented first and foremost by the Commission, EUIPO and NIPOs (see Question 1). However, businesses have to consider the implications of the measures imposed by Article 5s, as explained hereinafter.

4. What IPRs are covered by the ban under Article 5s?

Last update: 5 November 2024

The following IPRs are to be considered covered by Article 5s(1)

- New applications for patents, such as:
    - national patent applications;

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80 See Recital 20 of Council Regulation (EU) 2024/1745 of 24 June 2024.

81 https://www.interfax.ru/business/968262: "The deputy head of the FAS [Sergey Puzyrevsky] noted that the introduction of parallel imports against the backdrop of sanctions against the Russian Federation made it possible "not to reduce the level and volume of goods that are necessary from the point of view of consumers" and at the same time "reduce the level of influence of copyright holders on these processes."

82 Decree of 20 May 2024 of the Russian President No 403 "On temporary procedure for acquiring exclusive rights of certain copyright holders and fulfilling monetary obligations to certain foreign creditors and person controlled by them".

83 https://www.reuters.com/business/retail-consumer/russian-court-lets-local-brewer-use-carlsberg-brands-despite-danish-firms-exit-2023-12-18/

- European patent applications filed with the national offices of an EU Member State, if any (Article 75(1)(b) of the European Patent Convention ('EPC'));
- Patent Convention Treaty (PCT) applications filed before national offices of EU Member States;
- European patent applications filed before the EPO (should Article 5s(3) be implemented)
- PCT applications filed before the European Patent Office ('EPO'), in accordance with Article 5s(4) implementation;
- PCT applications entering the regional phase before the EPO, in accordance with Article 5s(4) implementation), or the national phase before a NIPO and
- PCT applications filed at WIPO (IB) (should para 4 of Article 5s be implemented).

- New applications for trademarks, such as:
  - national trademark applications before a NIPO;
  - EU trademark applications;
  - Madrid applications filed before a NIPO;
  - Madrid applications filed before the EUIPO;
  - Madrid applications that enter the national or regional phase;
  - Madrid applications filed at WIPO (IB) (should para 4 of Article 5s be implemented).

- New applications for industrial designs, such as:
  - national trademark applications before a NIPO;
  - EU design applications;
  - Hague applications filed before a national office;
  - Hague applications filed before the EUIPO;
  - Hague applications that enter the national or regional phase;
  - New Hague applications filed at WIPO (IB) (should para 4 of Article 5s be implemented).

- New applications for registration of geographical indications, such as:
  - Applications for registration in the EU concerning protected designations of origin (PDO), protected geographical indications (PGI), geographical indications (GI);
  - Registrations of appellations of origin and geographical indications under the Geneva Act notified by WIPO (IB) to the Commission.

5. In practice, what does it mean that the EUIPO and NIPOs will not accept new applications and requests based on Article 5s?
Last update: 5 November 2024

IPOs should identify new applications, requests and submissions submitted by the Target Persons, including when filed or submitted by joint applicants, and not process them (see Question 19 of this Part of this FAQs section for joint applications). Applicants and requestors should not expect to receive a registration number (i.e. filing number and filing date) as their application(s), request(s) and submission(s) will be treated as if they

had not been filed. No priority right would thus be generated by the NIPO (even if internal reference numbers may be allocated).

Requests and submissions submitted by a Target Person during the registration procedure relating to a non-Target Person's application or requests (e.g. IPRs filed by a non-Russian person) should be deemed as if they had not been filed, so the registration procedure will continue. The EUIPO and NIPOs can accept requests by Target Persons in the interest of third parties (e.g. request of a Target Person to withdraw an existing opposition) as well as requests of abandoning their own registration.

Requests filed after 24 June 2024 ('Entry into force of Article 5s') by Target Persons in relation to their own applications that were filed before that date are suspended. In these situations, the EUIPO and NIPOs may stay the proceedings. The same applies in case the request/submission intends to remedy a deficiency notified by the EUIPO and NIPOs, where failing to remedy a deficiency within a deadline would otherwise lead to rejection, or in case a request is filed for a European patent validation, but a document is missing or a formal deficiency needs to be remedied, and such a document or correction is submitted to the NIPO after the Entry into force of Article 5s. New requests related to pending application for registrations of designations of origin (PDO), protected geographical indications (PGI), geographical indications (GI) should also be suspended.

The EUIPO and NIPOs should send a message or communication to the applicant or requestor with regards to all newly filed relevant IP rights applications and requests/submissions, informing them that the application/request/submission will not be processed by virtue of Article 5s, and that no filing number and filing date will be accorded. Such message or communication should not entail a final or provisional refusal. Applicants should be allowed to file their applications again if Article 5s is repealed.

6. What is the procedure in case of international trademark applications, industrial design or geographical indications' applications?

Last update: 5 November 2024

As regards Madrid applications for trademarks entering the national or regional phase, NIPOs and the EUIPO are expected to issue a provisional refusal for international trademarks entering the national or regional phase and notify the WIPO (IB) within the deadline about that provisional refusal, thereby the Madrid application will not become effective in the relevant Member States or the EU. After the provisional refusal, if an applicant does not show falling under an exemption, NIPOs and the EUIPO may issue a final refusal decision as per the Madrid Agreement.

As regards Hague applications for designs entering the national or regional phase, NIPOs and the EUIPO are expected to issue refusals of effects of international registrations pursuant to the applicable rules of the Hague System (unless the applicant can show falling under an exemption) and send a notification to the WIPO (IB) within the deadline about the refusal thereby the Hague application will not become effective in the relevant Member States or the EU.

The same also applies with regard to refusals of effects of international registrations pursuant to Article 15 of the Geneva Act of the Lisbon Agreement on Appellations of

Origin and Geographical Indication in respect of application for internation registration of Appellations of Origin and Geographical Indication.

The above applies where the notification date to the EUIPO or the NIPO is after the of Entry into force of Article 5s, irrespective when the application was filed to WIPO (IB). The EUIPO and NIPOs may decide not to publish an international application which will be provisionally refused or refused afterwards as per the above procedures.

7. **Can a NIPO process a request for the validation of a European patent in the respective Member State, given that such a request is filed after the EPO has granted the European patent?**
   Last update: 5 November 2024

No, NIPOs should not process requests for validation of a European patent in the respective Member States, as required by Article 5s(1)(b), since the wording 'during the registration procedures' also includes the national validation procedure. In case documents are missing or a formal deficiency needs to be remedied in a pending request for validation, and such a document or correction is submitted after the Entry into force of Article 5s, such submission should not be accepted and the proceeding should be suspended.

8. **Which requests and submissions are covered by Article 5s(1)(b)?**
   Last update: 5 November 2024

Article 5s(1)(b) encompasses only requests and submissions filed by Target Persons during the registration procedure (i.e. from the filing of the application until the IPR becomes effective in the designated Member State or in the Union), including if they are either related to a non-Target Person's application or request or to the own application (or request) of a Target Person. The prohibited requests submitted by the Target Person can also be related to an application or request that was filed before the Entry into force of Article 5s. Examples of such requests filed by Target Persons include requests to amend pending applications, oppositions against pending applications, notices of comment or requests for supplementary information.

Requests/submissions filed after the registration procedure has been finalised and the IPR has become effective are not subject to a restriction and can be accepted. Irrespective of the time of the filing, requests and submissions filed by non-Target Person are not covered by the restriction either, unless the EUIPO or the NIPO suspects circumvention (see Question 21 of this Part of this FAQs section). The 'non-acceptance' of requests/submissions under Article 5(1)(b) applies even if they intend to remedy a deficiency notified by the EUIPO or a NIPO to an applicant (see Question 7 of this Part of this FAQs section).

In relation to patents, the following requests/submissions filed by Target Persons are covered by Article 5s(1)(b):

- requests or submissions in respect of national patent applications (e.g. request for examination, procedural requests, third party observations);

- requests for conversion of European patent applications into Member State applications in accordance with Article 135 EPC;
- new validation requests, in EU MSs, of European patents.

Examples of requests and submissions filed by the Target Person that relate to their own applications or requests filed before the Entry into force of Article 5s in the area or trademarks and designs include:

- request to restrict, amend or divide a trademark application, requests for recordal of licences in respect of applications, procedural requests (e.g. restitutio/continuation of proceedings/extension time limits/suspension), deferment of publications.

Examples of requests and submissions filed by Target Persons that relate to non-Target Person's applications or requests in the area or trademarks and designs include:

- filing of oppositions and of third-party observations.

9. Will Target Persons be allowed to use their signs, product designs and innovations which will not be protected by intellectual property in the EU?
Last update: 5 November 2024

Yes. Article 5s does not prohibit Target Persons to use their signs, product designs and innovations in the Union (provided such use is not prohibited). However, Target Persons will not be able to prevent EU companies or persons to use those signs, product designs and innovations in the EU as they will not become a trademark, industrial design, utility mode or patent in the EU and accordingly those signs, product designs and innovations will not enjoy IP protection.

B.2 Procedural aspects

10. Is there a transitional period?
Last update: 5 November 2024

No. Article 5s entered into force on the day after its publication in the Official Journal of the European Union i.e., on 25 June 2024.

11. What happens to applications of Target Persons which were filed before the Entry into force of Article 5s, where by such date all the procedural steps are concluded (i.e. no more requests or submissions are needed) and just the final decision has not been taken yet by the EUIPO or the NIPO?
Last update: 5 November 2024

While Article 5s only requires that new applications, requests and submissions must not be accepted, the EUIPO and NIPOs may also decide to stay/suspend the processing of an already pending relevant IPR application, especially with a view to avoiding its rejection, in a situation when the non-acceptance by a NIPO of new requests/submissions from an applicant might lead to the rejection of the related application (e.g. because there are procedural deadlines for submitting certain requests). In other words, EUIPO and NIPOs

can stay the proceedings instead of issuing a final refusal. Proceedings cannot be stayed for new applications filed by Target Persons. Proceedings where all procedural steps were taken before the Entry into force of Article 5s should be concluded with the corresponding decision.

12. What happens to IPRs of Target Persons which were registered before the Entry into force of Article 5s?
Last update: 5 November 2024

Those IPRs are preserved and requests/submissions in that regard can be accepted and processed. In particular, Article 5s does not impact the maintenance and renewal of the existing intellectual property rights. Only new applications for registration, and new requests or submissions filed during the registration procedure, are covered by the restriction.

The registration procedure should be considered to last from the filing of the application until the IPRs right becomes effective. However, European patent validation requests filed after the Entry into force of Article 5s are subject to the prohibition under Article 5s, because they are filed before the patent becomes effective, even if the related European patent application was filed before the Entry into force of Article 5s. A request to record the details of a transfer of ownership after the registration procedure is not covered by Article 5s, hence it should be accepted even if filed by a Target Person after the Entry into force of Article 5s.

13. If the Target Person fails to pay the maintenance fee in respect of an application pending on or filed after the Entry into force of Article 5s for an IPRs indicated in Article 5s, can such person requests the re-establishment of rights by the Member State IPO or EUIPO?
Last update: 5 November 2024

Any request which falls under the scope of Article 5(1)(b) (including requests for the re-establishment of rights) should not be accepted. However, requests not falling under this provision - e.g. those that were made after the end of registration procedure - can be accepted.

14. Can EUIPO and NIPOs accept fees for applications or requests?
Last update: 5 November 2024

The EUIPO and NIPOs are advised to send a notification to Targeted Persons, when they file a new application or request/submission, to clarify that they should refrain from paying any fees (e.g. filing fee) related to new applications, or to requests/submissions during the registration procedures related to Non-Target Person’s applications or requests (which does not include e.g. post-grant renewal procedures). Should Target Persons nevertheless pay such fees, they should be reimbursed. As regards requests/submissions related to the own pending application or request of a Target Person, since these procedures are suspended, the related fee may be accepted by NIPOs and the EUIPO.

B.3 Invalidity

15. Are invalidity requests filed by persons targeted in Article 5s(1)(a) and (b) covered by Article 5s?
Last update: 5 November 2024

Invalidity requests filed after the registration procedure are allowed, since Article 5(1)(b) covers only those requests and submissions which are filed during the registration procedure.

16. Are invalidity requests filed by third parties relating to an IPR held by a Target Person covered?
Last update: 5 November 2024

Such invalidity requests are not covered by Article 5s, because they are not filed during the registration procedure. Requests filed by third parties are not covered either, not even those filed during the registration procedure, because only requests filed by Target Person are covered. Therefore, they are allowed.

B.4 Information requirements

17. Will Target and non-Target Persons have to submit information about their nationality and address for their application or requester, after the Entry into force of Article 5s?
Last update: 5 November 2024

Yes. The Commission, EUIPO and NIPOs will request the necessary information[84] to ensure that the applicant or requestor is not a Target Person, and not accept applications and requests if the necessary information not provided. This applies also where the Commission, EUIPO and NIPOs did not require natural person applicants to indicate their nationality until the entry into force of Article 5s.

The Commission, NIPOs and the EUIPO may develop an IT solution to pre-check, pre-filter so that the applications filed by the Target Persons will not be able to enter the IT system and therefore those applications will not be considered filed.

In particular, applicants and requestors that are natural persons should provide the requested information concerning their nationality, as well as their temporary or permanent residence permit in a Member State, in a country member of the European Economic Area or in Switzerland.

A person whose application or request was not accepted because it has not provided the afore-said information can re-submit the application or request, with the necessary information.

NIPO and the EUIPO are also entitled to request the necessary information and proof in case in the case of national phase or EU phase entries of Madrid and Hague applications,

[84] This can be done by requesting to submit the necessary proof of nationality and residence permit and checking them individually.

including on the residence of the applicant, and in case it is not provided, the application should be provisionally refused until this information and the proof are not submitted. In the case of national phase entries of PCT applications, the nationality is known to the NIPOs.

B.5 Exemptions

18. Which persons are exempted from Article 5s(1)?
Last update: 5 November 2024

Natural persons holding either a Member State, EEA country or Swiss nationality together with the Russian nationality, irrespective of their residence, are exempted from Article 5s(1) as per Article 5s(5) (e.g. a Member State-Russian national living in either Member State, Russia or another third county). Other dual nationals are not exempted under Article 5s(5) e.g. persons holding a nationality other than EU/EEA/Swiss in addition to the Russian nationality. Russian natural persons that have a permanent or temporary residence permit in the EU/EEA/Switzerland are exempted from the application of Article 5s(1).

19. Are joint applications Target Person together with a non-Target Person covered by Article 5s?
Last update: 5 November 2024

Yes, applications filed jointly by a Target Persons with a non-Target persons or an exempted Target Persons should not be accepted. The non-Target persons or exempted Target Persons can submit again the application without the Target Person. This also applies to applications filed under the Madrid and Hague system.

B.7 Others

20. What is the interplay between the asset freeze under Council Regulation (EU) 269/2014 and Article 5s?
Last update: 5 November 2024

Council Regulation (EU) 269/2014 and Council Regulation 833/2014 apply independently. Restrictions in the two regulations must be equally complied with. See also Question 3 of Part "General questions" of this FAQs section on the case of an application filed by a person listed in Annex I to Council Regulation (EU) No 269/2014, or persons owned or controlled by them that is also a person targeted in Article 5s(1) of Council Regulation 833/2014.

21. What is the relevance of Article 12 of Council Regulation (EU) 833/2014 (anti-circumvention provision) in relation to Article 5s?

Article 12 of Council Regulation (EU) 833/2014 prohibits Union persons to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in such Regulation. NIPOs should remain therefore vigilant that a Target Person, is not circumventing the restriction by making use of formally legal avenues (e.g. using a middle person with Member State citizenship; transferring an application filed before the Entry into force of Article 5s to a non-Russian subsidiary with the aim that subsequent requests/submissions would be accepted). In cases where an

application/request/submission is filed in violation of Article 12, Article 5s still applies and the EUIPO and the NIPOs should not process the application and pass the information to the sanctions NCA for enforcement against the circumventers, including the person that is required to comply with EU law (e.g. the middle persons) as well as the Commission, as per Article 6b(1) of Council Regulation (EU) 833/2014.

Article 5s does not cover companies in the Union that are owned or controlled by Target Persons. However, those entities cannot be used to circumvent Article 5s (e.g. when the subsidiary in the Union of companies established in Russia applies for a trademark in the interest of its parent company).

22. Can the applicants whose applications or requests were not accepted appeal or seek judicial or administrative redress?
Last update: 5 November 2024

The applications are deemed as if they had not been filed. EU sanctions are without prejudice to rights of the parties to seek judicial or administrative redress against decisions or against failure to act by the intellectual property authorities.

23. Should applications be assessed which were filed by legal persons established outside Russia but where the beneficial owner is a Russian national?
Last update: 5 November 2024

While in principle these applications are not covered by the restriction under Article 5s, please see Q. 21 of this Part of this FAQs section on circumvention.

13. MEDICINES AND MEDICAL DEVICES

RELEVANT PROVISION: ARTICLES 2, 2a, 3k, 3l, 3ea, 5aa of COUNCIL REGULATION 833/2014

1. **Do EU economic operators or economic operators doing business in the EU have to comply with Council Regulation (EU) 833/2014 when providing medicinal products, medical devices and certain related assistance and services to natural or legal persons, entity or body in Russia or for use in Russia?**
   Last update: 29 July 2022

Yes, EU economic operators or economic operators doing business in the EU must comply with Council Regulation (EU) 833/2014, including when exporting medicinal products or medical devices to Russia. Pursuant to Article 13 of Council Regulation (EU) No 833/2014, EU sanctions apply, among others, within the territory of the Union, to any person inside or outside the territory of the Union who is a national of a Member State, to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State and to any legal person, entity or body in respect of any business done in whole or in part within the Union.

This also includes subsidiaries in the EU of Russian parent companies. Russian subsidiaries of EU parent companies are incorporated under Russian law, not under the law of a Member State, hence they are not bound by the measures in Council Regulation (EU) No 833/2014. However, EU parent companies cannot use their Russian subsidiaries to circumvent the obligations that apply to the EU parent, for instance by delegating to them decisions which run counter the sanctions, or by approving such decisions through the Russian subsidiary.

2. **What are the most relevant restrictions under Council Regulation (EU) No 833/2014 that EU economic operators or economic operators doing business in the EU should be aware of when providing medicinal products, medical devices and certain related assistance and services to natural or legal persons, entity or body in Russia or for use in Russia?**
   Last update: 29 July 2022

While all restrictions under Council Regulation (EU) No 833/2014 must be complied with by EU economic operators or economic operators doing business in the EU, the economic operators indicated in the question should pay particular attention to the following restrictions.

Article 2	Restriction on sale, supply, transfer or export of dual-use goods and technology to any natural or legal person, entity or body in Russia or for use in Russia, or related provision of certain assistance and services.
Article 2a	Restriction on sale, supply, transfer or export of goods and technology in Annex VII to any natural or legal person, entity or body in Russia or for use in Russia, or related provision of certain assistance and services.

Article 3k	Restriction on sale, supply, transfer or export of the goods in Annex XXIII to any natural or legal person, entity or body in Russia or for use in Russia, or related provision of certain assistance and services.
Article 3l	Restriction on transport of goods within the territory of the Union by a road transport undertaking established in Russia, including in transit.
Article 3ea	Restriction on vessels registered under the flag of Russia to access EU ports.
Article 5aa	Restriction to directly or indirectly engage in transactions with the entities referred to in Article 5aa.

This list is not exhaustive. It is an obligation on EU economic operators or economic operators doing business in the EU to verify which restrictions are relevant for their business and comply with them. To do that, they can seek guidance from their national competent authority (NCA).

3. Are there exceptions to restrictions under Council Regulation No 833/2014 for providing medicinal products, medical devices and certain related assistance and services to natural or legal persons, entity or body in Russia or for use in Russia?
Last update: 29 July 2022

Yes. Council Regulation 833/2014 includes a number of exceptions that can be relevant for those actions. Exceptions encompass 'exemptions' and 'derogations' (authorisations)[85]. The exceptions provided in Council Regulation No 833/2014 include the following:

Medical or pharmaceutical purposes

[85] Derogations' should not be confused with 'exemptions'. Exemptions mean that a restriction does not apply when the purpose of the action matches the one exempted. Operators can carry out the action at hand without any delay or further action. Derogations mean that a restricted (prohibited) action can be carried out only after the NCA has granted an authorisation for the indicated purpose. Exemptions are generally phrased along the following lines: '(The prohibitions laid down in) Article... shall not apply to...'. Derogations are generally phrased along the following lines: 'By way of derogation from the (prohibitions in) Article..., the competent authorities may authorise, under the conditions they deem appropriate...'.

Article 2(3)(b):	Exemption for the sale, supply, transfer or export of dual-use goods and technology, or related provision of certain assistance and services, for non-military use and for a non-military end user, intended for medical or pharmaceutical purposes. This exemption does not apply where the end-user is a person, entity or body listed in Annex IV.
Article 2a(3)(b):	Exemption for the sale, supply, transfer or export of the goods and technology in Annex VII, or related provision of certain assistance and services, for non-military use and for a non-military end-user, intended for medical or pharmaceutical purposes. This exemption does not apply where the end-user is a person, entity or body listed in Annex IV.
Article 3k(5)(a):	Authorisation for the sale, supply, transfer or export of the goods in Annex XXIII, or related provision of certain assistance and services, intended for medical or pharmaceutical purposes, unless the NCA has reasonable grounds to believe that the goods might have a military end-use.

Pharmaceutical and medical products	
Article 3l(4)(b):	Authorisation for the transport of goods within the territory of the Union by a road transport undertaking established in Russia after having determined that such transport is necessary for the purchase, import or transport of pharmaceutical and medical products, whose import, purchase and transport is allowed under Council Regulation No 833/2014.
Article 3ea(5)(b)	Authorisation for a vessel to access a EU port after having determined that the access is necessary for the purchase, import or transport of pharmaceutical and medical products, whose import, purchase and transport is allowed under Council Regulation No 833/2014.
Article 5aa(3)(f):	Exemption for transactions which are necessary for the purchase, import or transport of pharmaceutical and medical products, whose import, purchase and transport is allowed under this Regulation, as well as humanitarian purposes.

4. Is there a definition of 'medical' or pharmaceutical purposes' as per the exceptions under Article 2(3)(b), Article 2a(3)(b), Article 3k(5)(a)?
Last update: 1 February 2023

EU sanctions do not include a definition of 'medical' or 'pharmaceutical purposes'. It is for economic operator to assess, and prove, if the goods and technology under Article 2 and Article 2a are sold, supplied, transferred or exported to, or the related assistance and services are provided for, a person, entity or body in Russia or for use in Russia for those purposes. The economic operator retains responsibility in case the exported goods and technology are not used for such purposes.

In the case of Article 3k(5)(a), it is for the NCA to assess, on a case-by-case basis, if goods are sold, supplied, transferred or exported to, or the related assistance and services is provided for, a person, entity or body in Russia or for use in Russia for those purposes. This assessment should be conducted on the basis of the information submitted in the request for derogation by the economic operator and on the basis of the NCA knowledge. The recipient of an authorisation retains responsibility for complying with the terms and conditions in the derogation.

It must be recalled that exceptions should be applied narrowly in order not to undermine the goal of EU sanctions (see Point 3.8. Humanitarian exceptions, Commission Guidance Note on the provision of humanitarian aid in compliance with EU restrictive measures (sanctions))[86]. Economic operators can seek guidance from their NCA.

This said, the categories of 'medical' or 'pharmaceutical purposes' should encompass, first and foremost, trade in goods and technology that fall under the scope of application of the following EU legislation:

- Regulation (EU) 2017/745 (Medical Devices Regulation) and Regulation (EU) 2017/746 (*In Vitro* Diagnostic Devices);
- Directive 2001/83/EC (Directive on medicinal products for human use).

Subject to the assessment of the NCA and provided that the applicant has solid evidence in relation to the medical or pharmaceutical purposes of the action, the exceptions at hand *may* include:

- spare parts of and components to be assembled into medical devices;
- ingredients of and compounds to be further processed into medicines;
- medicinal products intended for research and development trials;
- intermediate products intended for further processing into medicinal products;
- machineries and equipment, including protective ones, that are strictly necessary for the production of medicines, administration of medicinal products or use of medicinal products.

86 C(2022) 4486 final available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220630-humanitarian-aid-guidance-note_en.pdf

Cosmetics, biocidal products, herbal medicines, food supplements and other borderline products, as well as chemical substances other than ingredients of and compounds to be further processed into medicinal products, and other goods, including if used in healthcare facilities, do not have, in principle, medical or pharmaceutical purposes. Veterinary medicinal products, as defined in Regulation (EU) 2019/6 of 11 December 2018 are not covered by the exceptions under Articles 2, 2a and 3k of Council Regulation (EU) 833/2014. This is because those exceptions do not include the word "veterinary"; therefore, they do not cover items for "medical" or "pharmaceutical" purposes specifically for animal use (not human use).

5. Is there a definition of pharmaceutical and medical products as per the exceptions under Articles 3l(4)(b), Article 3ea(5)(b) and Article 5aa(3)(f)?
Last update: 1 February 2023

EU sanctions do not include a definition of 'pharmaceutical and medical products'. In the cases concerning Article 3l(4)(b) and Article 3ea(5)(b), it is for the NCA to assess, on a case-by-case basis, if the products transported by a road undertaking or vessels qualify as pharmaceutical and medical products. This assessment should be conducted on the basis of the information submitted in the request for derogation by the economic operator and other information available. The recipient of a derogation retains responsibility for complying with the terms and conditions of the authorisation. The NCA may also authorise the entry into the EU of an empty road undertaking or vessel that can demonstrate that the purpose of its entry into the EU is to transport back a good that is assessed by the NCA as being pharmaceutical and medical product.

In case of Article 5aa(3)(f), it is for the economic operator to assess in the first place, and prove, if the relevant transaction concerns pharmaceutical and medical products. The economic operator retains responsibility in case the transaction does not concern those products.

It must be recalled that exceptions should be applied narrowly in order not to undermine the goal of EU sanctions (see Point 3.8. Humanitarian exceptions, Commission Guidance Note on the provision of humanitarian aid in compliance with EU restrictive measures (sanctions))[87]. Economic operators can seek guidance from their NCA.

This said, the categories of pharmaceutical and medical products should include first and foremost products that fall under the scope of application of the following EU legislation:

- Regulation (EU) 2017/745 (Medical Devices Regulation) and Regulation (EU) 2017/746 (*In Vitro* Diagnostic Devices);
- Directive 2001/83/EC (Directive on medicinal products for human use).

Subject to the assessment of the NCA and provided that the applicant has solid evidence these are medical or pharmaceutical products, the exemption at hand *may* include:

- spare parts of and components to be assembled into medical devices;
- ingredients of and compounds to be further processed into medicines;
- medicinal products intended for research and development trials; and

87 C(2022) 4486 final available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220630-humanitarian-aid-guidance-note_en.pdf

- intermediate products intended for further processing into medicinal products.

Cosmetics, biocidal products, herbal medicines and food supplements and other borderline products, chemical substances other than ingredients of and compounds to be further processed into medicinal products as well as other goods, including if used in healthcare facilities, do not qualify, in principle, as pharmaceutical and medical products.

Veterinary medicinal products, as defined in Regulation (EU) 2019/6 of 11 December 2018 are not covered by the exceptions under 3l(4)(b), Article 3ea(5)(b) and Article 5aa(3)(f) of Council Regulation (EU) 833/2014. This is because those exceptions do not include the word "veterinary"; therefore, they do not cover pharmaceutical and medical products specifically for animal use (not human use).

6. Who can grant authorisations under Article 3l(4)(b) and 3ea(5)(b)?
Last update: 29 July 2022

NCAs grant authorisations under Article 3l and 3ea. See, in this respect, sections Road Transport and Access to EU ports of these FAQs.

7. Can a commercial company make use of an exemption/apply for a derogation for humanitarian purposes, when it comes to medical or pharmaceutical supplies/products?
Last update: 29 July 2022

Commercial companies should in principle avail themselves of the exceptions provided for medical and pharmaceutical products and purposes, and not of the humanitarian exception. These fall under different requirements and should not be considered interchangeable. An authorisation for humanitarian purposes under EU sanctions can be obtained only if the action is intended to provide assistance, relief and protection to persons in need, in accordance with International Humanitarian Law and the principles of humanity, neutrality, impartiality and independence and that other relevant conditions, are met and subject to the terms and conditions determined by the NCAs. Commercial companies, such as manufacturers of medicinal products and medical devices, can benefit from a derogation for humanitarian purposes.

However, since the core business of commercial companies is not humanitarian *per se*, such companies must show that the concerned action has humanitarian purposes only. The NCA must then assess on a case-by-case basis if the specific action has indeed humanitarian purposes (namely whether such action is intended to provide assistance, relief and protection to persons in need, in accordance with International Humanitarian Law and the principles of humanity, neutrality, impartiality and independence). The fact that in certain cases the provision of medical or pharmaceutical products can qualify as humanitarian aid does not mean that every supply of them is inherently humanitarian. NCAs and economic operators should also consider that exceptions should be applied narrowly in order not to undermine the goal of EU sanctions (see Point 3.8. Humanitarian exceptions, Commission Guidance Note on the provision of humanitarian aid in compliance with EU restrictive measures (sanctions))[88] and that circumvention of sanctions is prohibited.

[88] C(2022) 4486 final available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220630-humanitarian-aid-guidance-note_en.pdf

8. **The exemption under Article 2(3)(b) and Article 2a(3)(b) can apply under the condition that the goods and technology are intended for non-military use and for a non-military end user. What does that mean?**
Last update: 29 July 2022

The exemptions in Articles 2(3) and 2a(3) allow exports of dual-use and advanced technologies intended for humanitarian purposes, health emergencies and medical purposes from the relevant restrictions, as long as such exports are destined for non-military use and for a non-military end-user. Therefore, where the items are destined for a civilian facility as the end-user, the exemption could apply unless there are reasonable grounds to believe that the items could be diverted to a military end-use or end-user.

9. **According to Article 3k(6), an NCAs can grant derogations under Article 3k(5) unless it has reasonable grounds to believe that the goods might have a military end-use. What does that mean?**
Last update: 29 July 2022

The term military end-use is addressed in Article 4(1)(b) of the Regulation (EU) 2021/821 of the European Parliament and of the Council (Dual Use Regulation). The fact that goods for medical or pharmaceutical purposes are sold, supplied, transferred or exported to military hospitals in Russia or for the use in military hospitals in Russia does not mean automatically that they are intended for a military end user.

10. **How can a company verify if the goods and technology it is exporting for medical or pharmaceutical purpose are subject to restrictions under Article 2, 2a or 3k?**
Last update: 29 July 2022

Dual-use goods and technology subject to the restriction under Article 2 means the items listed in Annex I to Dual Use Regulation.

Goods and technology subject to the restriction under Article 2a means the items listed in Annex VII to Council Regulation (EU) 833/2014.

Goods subject to the restriction under Article 3k means the items listed in Annex XXIII to Council Regulation (EU) 833/2014.

To ascertain if the goods and technology are subject to restrictions under Article 2, 2a or 3k, the company should check if the goods are classified under the 8-digit CN codes included in the afore-mentioned annexes. For that, they can seek guidance from their NCA. The Commission has also published a correlation table between the CN codes and the dual use codes, extracted from the TARIC database. This table, compatible with the harmonized System 2022[89], is available on the public CIRCABC site "TARIC and Quota data and information" under "reference documents"[90].

[89] http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2022-edition/hs-nomenclature-2022-edition.aspx

[90] https://circabc.europa.eu/ui/group/0e5f18c2-4b2f-42e9-aed4-dfe50ae1263b

11. What does Council Regulation (EU) No 269/2014 entail for EU economic operators or economic operators doing business in the EU when exporting medicinal or pharmaceutical products or providing financing or technical assistance to natural or legal persons, entity or body in Russia or for use in Russia?

Last update: 29 July 2022

Under Council Regulation (EU) No 269/2014, the EU has designated a number of individuals and legal persons as subject to asset freezes and a prohibition to make funds available. This means, inter alia, that it is prohibited for EU economic operators or economic operators doing business in the EU to make funds or economic resources available to designated persons or persons owned/controlled by them. Economic resources encompass assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but may be used to obtain funds, goods or services; as such, medicinal or pharmaceutical products can qualify as economic resources (see point 3, Syria chapter, Commission guidance note on the provision of humanitarian aid to fight the Covid-19 pandemic in certain environments subject to EU restrictive measures[91]). Note that for an asset to qualify as an 'economic resource', it is not necessary to prove that it will be used to obtain funds (see Point 3.3. Prohibition to make funds and economic resources available to designated persons or for their benefit, Commission Guidance Note on the provision of humanitarian aid in compliance with EU restrictive measures (sanctions))[92]. By way of example, this means that no further trade with those persons is possible as of the moment of their designation. Economic operators should therefore make sure that they take the necessary contractual measures to that end (Russia FAQs, Section 'Horizontal as well as Circumvention and Due diligence, Section 'Individual financial measures' and Section 'Execution of contracts and claims'). Exceptions to this prohibition may however apply for exclusively humanitarian purposes in Ukraine[93].

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91 C(2021) 5944 final https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/210813-humanitarian-aid-guidance-note_en.pdf

92 C(2022) 4486 final available at https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220630-humanitarian-aid-guidance-note_en.pdf

93 See Article 2a of Council Regulation 269/2014.

14.NOTIFICATION AND AUTHORISATION OF TANKER SALES

RELEVANT PROVISION: ARTICLE 3Q of COUNCIL REGULATION 833/2014
AS OF 19 FEBRUARY 2024

1. **Does this provision prohibit the sale of oil tankers to Russia? What about other third countries?**
   Last updated: 19 February 2024

This provision does not entail a straightforward ban on the sale or other ownership transfer of tankers to Russia. It introduces transparency into these transactions to any third country to address risks of evasion of the EU import ban on Russian crude oil or petroleum products and of the G7+ Oil Price Cap.

The provision employs a two-pronged approach with notification and authorisation requirements depending on the nationality/place of establishment of the buyer and the use of the tanker:

(i) The tanker is sold to a natural or legal person, entity or body **in Russia or for use in Russia:** the sale is prohibited unless it is authorised by the competent authority of a Member State, at the conditions it deems appropriate (Article 3q, paragraphs 1 to 3).

(ii) The tanker is sold to a natural or legal person, entity or body from **any third country or for use in any third country, other than Russia**: the sale is possible but must be **notified** to the competent authority (Article 3q, paragraph 4).

Any sale or transfer of ownership after 5 December 2022 and prior to 19 December 2023 shall be notified to the competent authorities before 20 February 2024.

This measure seeks to introduce transparency into the sale of tankers, in particular second-hand carriers, that could be used to evade the import ban on Russian crude oil or petroleum products and the G7+ Oil Price Cap following the change of ownership. The inclusion of this provision aims to shed light on transactions that could otherwise result in the circumvention of these provisions, for example by facilitating the expansion of a tanker fleet transporting Russian oil above the price cap.

2. **What is meant by the 'other transfer of ownership' or 'other arrangement entailing a transfer of ownership'?**
   Last updated: 19 February 2024

The obligations set out in the article apply to any 'sale and transfer of ownership' (paragraphs 1 and 5 of Article 3q) and 'other arrangement entailing a transfer of ownership' (paragraph 5 of Article 3q). Both expressions have the same meaning.

Transfer of ownership should be understood broadly, covering for instance situations such as sale, barter, relinquishment, inheritance, interests in a trust or other similar legal arrangement as well as any other sort of division of the ownership or transfer of title such as a corporate restructuring. This broad interpretation aims at avoiding the circumvention of the measure by hiding the genuine nature of the transaction.

3. **To whom does the provision apply?**
   Last updated: 19 February 2024

This provision applies to any national of a Member State, natural person residing in a Member State, and legal person, entity or body which is established in the Union. An EU individual who owns, for instance through a third country company, a tanker registered under a third country flag is subject to this obligation. This is in line with Article 13(c) of Council Regulation 833/2014 which sets out the jurisdictional scope of the Regulation.

It is prohibited for EU operators to take part in any activities seeking to circumvent EU sanctions, for instance by acting as a substitute for a natural or legal person subject to Article 3q. The use of any intermediary to carry out the sale or transfer of ownership does not relieve the EU natural or legal person from the authorisation or notification obligations. For instance, circumvention can occur if an intermediary is used to carry out an operation that, although apparently legitimate, has the sole purpose of neutralising the effect of these obligations.

4. **Does this provision only apply to the sale or other transfer of ownership of EU-flagged vessels?**
   Last updated: 19 February 2024

No. This provision applies to the sale or other transfer of ownership of both EU and non-EU flagged vessels that are owned by a national of a Member State, natural person residing in a Member State, and legal person, entity or body which is established in the Union.

5. **Who should notify? What information should be shared?**
   Last updated: 19 February 2024

The notification can be done by the EU natural or legal person subject to the obligation, as well as any person acting in the person's name and/or on their behalf such as a lawyer, registered agent, ship broker. The identity of the person for whom they are acting must be clearly stated and all documentary evidence provided.

Such notification should contain the full identities of the owner, the seller (if different from the owner) and the purchaser, where applicable the incorporation documents of the seller and the purchaser including information details on the shareholding and management, the identification documents of the vessel including the IMO ship identification number of the tanker and the Call Sign of the tanker. It is also recommended to include other relevant documents, such as the sale and purchase agreement or information regarding or produced by the ship broker and escrow agent.

6. **Which tankers are concerned?**
   Last updated: 19 February 2024

This provision covers tankers falling under HS code ex 8901 20 suited for the transport of crude oil or petroleum products listed in Annex XXV. This provision applies where the tanker could transport such products, irrespective of their effective future use. This provision would not cover tankers that are suited for the transport of products such as LNG or LPG.

Where a tanker could transport both petroleum products listed in Annex XXV as well as other petroleum products that are not listed in this Annex, the sale or transfer of ownership still falls under the scope of Council Regulation (EU) 833/2014.

7. **To which competent authority should an operator notify the sale or other transfer of ownership?**
   Last updated: 19 February 2024

The list of competent authorities can be found in Annex I to Council Regulation (EU) 833/2014. The person should notify the authority of the Member State from which it is a citizen, a resident or is established.

The Member State concerned shall inform the other Member States and the Commission of any authorisation or notification within two weeks.

Member States are encouraged to inform their operators through adequate channels on practical modalities of such notifications (indication of the authority to which sale should be notified, creation of a standard form, etc).

8. **At what conditions can a competent authority authorise the sale or other transfer of ownership of tankers to a Russian person or for use in Russia?**
   Last updated: 19 February 2024

A competent authorities may authorise, under the conditions they deem appropriate, the sale or other transfer of ownership of tankers for the transport of crude oil or petroleum products listed in Annex XXV, falling under HS code ex 8901 20, whether or not originating in the Union, to any natural or legal person, entity or body in Russia or for use in Russia.

They may take into account the following elements regarding the purchaser: past and current experience and track record in the maritime transport sector, ownership of the vessel as well as its flag, classification society and insurance provider, information and attestations from the shipbroker or escrow agent, management and shareholding involvement, resources to operate and maintain the tanker, track record for sanctions compliance as well as the intention to regularly access Russian territorial waters. For a legal person, entity, or body, further elements such as the place of registration, date of incorporation, content of the corporate documentation, activities and flagging of the purchaser's existing fleet (or lack thereof), ownership structure of the purchaser including ultimate beneficial owners, identity of the shareholders and managers, etc. This list is indicative only.

Where the competent authority has reasonable grounds to believe that the tanker would be used to transport, or be re-exported to transport, Russian crude oil or petroleum products listed in Annex XXV, for import into the Union (Article 3m) or for transport to third countries above the G7+ Oil Price Cap (Article 3n), the national competent authority should not grant the authorisation. This could be the case, for example, when the national competent authority holds information (acquired through confidential or public sources) suggesting that a party in a transaction subject to authorisation is engaged in the circumvention of sanctions or that certain elements of the transactions are suspicious (e.g. one or more of the parties cannot be identified or the corporate structure is excessively complex). Conversely, and for instance, a competent authority can grant an authorisation where it receives evidence that the buyer will transport Russian crude oil or

petroleum products in compliance with the G7+ Oil Price Cap or that it will access Russia only to transport non-Russian crude oil.

9. How can a seller ascertain that its tanker is not being sold for "use in Russia"?
Last updated: 19 February 2024

In order to comply with this provision, an operator selling or transferring ownership should carry out the necessary due diligence to establish whether the buyer will use the tanker is Russia.

A seller should seek this information from its counterpart with an explicit documented inquiry. The seller may also make a declaration that, based on such evidence, it has undertaken due diligence on the buyer of the tanker, and it is not aware of any reason why the tanker would be used in Russia. Furthermore, the declaration should include an assertion that the buyer or/and its ultimate beneficial owners are not subject to EU sanctions.

Authorisations should be sought only for cases in which the due diligence has revealed that the sale is to the benefit, directly or indirectly, to a Russian person or for use in Russia. Where no such information has been collected, it is not necessary to request an authorisation. A notification is sufficient. National competent authorities may reject such requests.

10. Will an EU operator be held liable if the tanker it sold is subsequently used in Russia and it had not requested an authorisation?
Last updated: 19 February 2024

The EU individual or entity selling or transferring ownership, as well as operators participating in the sale or transfer of ownership such as a shipbroker or escrow agent, should carry out the necessary due diligence to ensure compliance with EU sanctions.

Where the tanker is sold to a Russian person or is for use in Russia, sufficient evidence must be provided to the national competent authority to prove that the tanker would not be used in breach of the import ban on Russian crude oil or petroleum products and the G7+ Oil Price Cap. If the EU operator knowingly and intentionally fails to conduct such due diligence, this can be considered as participation in a circumvention scheme.

Article 10 of Regulation 833/2014 (non-liability clause) remains applicable i.e the sale of a tanker by an EU operator shall not give rise to liability, if he/she did not know, and had no reasonable cause to suspect, that the tanker sold to an operator in a third country would be used in Russia.

11. Does the notification obligation apply retroactively?
Last updated: 19 February 2024

Article 3q, paragraph 5, provides that the sale or other transfer of ownership of tankers concluded after 5 December 2022 and prior to 19 December 2023 should be notified to the competent authorities by 20 February 2024 at the latest. It is the obligation of the EU natural or legal person to trace back the sale or transfer or ownership and to collect all relevant information to be shared with the competent authority. Such notification should

be made in line with the requirements set out in Article 3q, paragraph 4. Please refer to FAQ 5 for further information.

Member States national authorities should raise awareness with relevant stakeholders on the need to comply with such an obligation, including for the sales which occurred prior to the adoption of the measures, up to 5 December 2022.

12. Does this provision cover long-term charterparties?
Last updated: 19 February 2024

It is not required to notify or seek authorisation for long-term charterparties. EU natural and legal shipowners that charter tankers, directly or indirectly, must comply with EU sanctions (Article 13 of Council Regulation (EU) 833/2014). This includes bareboat charterparties.

Where a tanker is long-term chartered, the EU natural and legal shipowner should carry out the necessary due diligence to ascertain, in particular, compliance with the EU import ban on Russian oil and the G7+ Oil Price Cap.

13. What are the notification obligations of Member States under this provision?
Last updated: 19 February 2024

The Member State receiving notifications and granting authorisations shall inform the other Member States and the Commission of any authorisation granted under paragraph 2, and of any notification under paragraphs 4 and 5, within two weeks of the authorisation or notification.

This information sharing shall support the detection instances of breach or circumvention of this provision. This can facilitate the implementation and enforcement of the EU import ban on Russian crude oil or petroleum products and of the G7+ Oil Price Cap, in line with Article 3na, with a view to further identify vessels and entities of concern carrying out one or more deceptive practices while transporting Russian crude oil and petroleum products.

Any information provided or received in accordance should be used for the purposes for which it was provided or received, including ensuring the effectiveness of the measure.

15. TARGETED VESSELS

RELATED PROVISION: ARTICLE 3S OF COUNCIL REGULATION 833/2014
FREQUENTLY ASKED QUESTIONS – AS OF 2 JULY 2024

1. **Can a vessel targeted in Annex XLII laden with dangerous or polluting goods at the date of targeting, such as oil, receive port access and services to unload its cargo?**
   Last update: 2 July 2024

For reasons of maritime safety or for the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, where a vessel targeted in Annex XLII is laden with dangerous or polluting goods, such as oil, subject to the competent authorities assessment the vessel may exceptionally benefit from the exemption in Article 3s paragraph 3 to receive port access and services for a unique emergency port call for the offloading of the dangerous or polluting goods on board at the date of the targeting of the vessel within a reasonable time, and in any case not later than 30 days from the date of targeting.

Per Article 13 of Council Regulation (EU) 833/2014, the Regulation applies throughout the territory of the Union, to any vessel under the jurisdiction of a Member State and to any legal person, entity or body which is incorporated or constituted under the law of a Member State. The competent authority of the EU operator involved in such operations should be contacted for support.