

**ENHANCED DUE DILIGENCE FOR OPERATORS  
MANUFACTURING AND/OR TRADING WITH CHP ITEMS**  
*RELATED PROVISION: ARTICLE 12gb OF COUNCIL REGULATION 833/2014*  
**FREQUENTLY ASKED QUESTIONS – AS OF 11 DECEMBER 2024**

**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.