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 not a legal act. It is a working document drafted by the Commission services in order to help and give guidance to national authorities, EU operators and citizens for the implementation and the interpretation of Council Regulation No 833/2014 and Council Regulation No 269/2014. It has no binding effect.

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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 free lancer. 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

2. CIRCUMVENTION AND DUE DILIGENCE

RELATED ARTICLES: ARTICLE 12 OF COUNCIL REGULATION 833/2014; ARTICLE 9 OF COUNCIL REGULATION 269/2014

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 recommended 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 whistle-blower 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: 5 April 2022

Compliance with trade-related sanctions (e.g. dual-use exports, oil exploration equipment, high tech goods and technology) is not limited to banks processing the related payments but is also the responsibility of operators initiating such trade (e.g. exporters, brokers…). 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: 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".

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: 31 May 2022

Regarding the topic of circumvention, both Articles 12 of Council Regulation (EU) No. 833/2014 and Art. 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.

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.

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. **The Regulation 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: 13 June 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.

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 more than 50% of that entity, should that entity be considered as owned by listed persons?**
   Last update: 8 April 2022

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: 29 April 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.).

16. 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.

17. Should the employment contract of listed persons employed in whatever function by an EU financial firm be terminated?
Last update: 19 May 2022

Council Regulation (EU) No 269/2014 prohibits EU operators from making funds or economic resources available, directly or indirectly, to persons listed in the Annex 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 foresees an exception where, subject to prior authorisation, funds can be provided 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.

18. 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.

19. 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).

20. 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.

21. 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.

22. 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.

23. 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 Q&As.

24. 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 whistle-blower tool.

25. 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".

2. INTELLECTUAL PROPERTY RIGHTS

RELATED PROVISION: COUNCIL REGULATION 269/2014

1. **Do EU sanctions provided for in Council Regulation (EU) No 269/2014 apply to intellectual property rights?**
   Last update: 26 April 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 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). 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: 26 April 2022

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 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.

3. **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.

4. **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: 26 April 2022

IPRs can be renewed, provided they remain frozen. 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).

5. **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.

6. **Could frozen IPRs still be enforced before EU courts?**
   Last update: 26 April 2022

Preserving rights which otherwise remain frozen is not paramount to using them. Enforcing IPRs before EU courts should be permitted. Restrictions concerning the asset freeze and the prohibition to make funds available to designated persons remain applicable.

7. **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.

8. **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: 26 April 2022

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, persons non designated or non-owned/controlled by designated persons are not subject to restrictions.

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 whistleblower 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 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: 14 April 2022

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 denominated in the currency of a Member State, 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 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: 14 April 2022

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: 14 April 2022

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.

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.

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) and 5c(1)(d) of Council Regulation 833/2014 take place?**
   Last update: 3 May 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: 3 May 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 submission of the request 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: 3 May 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.

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)(d)? Which elements should be included in the assessment?**
   Last update: 3 May 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 exemption under Article 5c(1)(d) 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.

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.

6. **Art 5g of Council Regulation 833/2014 refers 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 national competent authority 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 and natural persons living in Russia or legal persons, entities or bodies established in Russia 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: 3 May 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: 3 May 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, 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), these deposits should be accepted when they are made towards 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: 3 May 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 for the benefit of an EU parent company coming from its subsidiary in Russia cannot in principle be accepted. However, pursuant to Article 5b(4), this

prohibition does not apply to those 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 limited and well-defined circumstances.

14. Does the prohibition for EU credit institutions to accept deposits from Russian legal and natural persons above EUR 100 000 refer only to new or also to existing deposits?
Last update: 3 May 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. <u>For new deposits:</u>

   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. <u>For existing deposits:</u>

- 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), 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 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: 3 May 2022

Yes, it does. If the deposit belongs to a Russian national or natural person 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 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: 3 May 2022

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

17. **Are limits targeting new deposits received after 25 February 2022? 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: 3 May 2022

The deposit shall not be accepted if it is made by a Russian national, a natural person residing in Russia, or legal persons, entities or bodies established 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), the relevant deposit is grandfathered. This means that the account holder is entitled to keep the money and do whatever they want (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: 3 May 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, 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 should be considered as benefiting from the exemption set out in Article 5b(4), whereby "*Paragraph 1 shall not apply to deposits which are 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 shall apply 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: 3 May 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.

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 share 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: 3 May 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 prohibition shall not apply to deposits which are 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 exemption 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: 3 May 2022

The prohibition in Article 5b of Regulation 833/2014 and that in Article 1u of Regulation 765/2006 only apply to Russian/Belarussian nationals or natural person residing in Russia/Belarus or any legal person, entity or body established in Russia/Belarus. Strictly speaking, it does not apply to entities owned by Russian/Belarussian nationals or natural persons residing in Russia/Belarus when the entities are registered in a country other than Russia/Belarus.

However, the provision should be read in conjunction with Article 12 of Council Regulation 833/2014 and Article 1m of Regulation 765/2006 which prohibit 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: 3 May 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 (i.e. they are Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia), 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: 3 May 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. 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 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

e 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 spec in Article 5g(1) of RSR and Article 1z of BSR. […] e 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. Is the exemption for EU subsidiaries as referred in Article 5 also applicable to subsidiaries located in EEA and Switzerland, to they extend they do not act on behalf or directive of targeted entity?

Last update: 1 June 2022

The derogation granted by Article 5b, paragraph 2 for nationals of EEA or Switzerland is strictly connected to paragraph 1 of the same article and only relates to natural persons. This derogation cannot be extended by analogy to other provisions under EU sanctions, unless explicitly mentioned in those provisions.

Please also note that 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 all EU incorporated companies, including subsidiaries of third country companies in the EU. By contrast, third country subsidiaries of EU parent companies are incorporated under third country law, not under the law of a Member States, hence they are not bound by the measures. However, it is prohibited under Article 12 for EU parent companies to use their third country subsidiaries to circumvent the obligations that apply to the EU parent, for instance by delegating to them decisions that run counter the sanctions.

41. 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: 8 July 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 5b(4) 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.

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: 11 April 2022

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, if the total value of crypto assets of the natural or legal person, entity or body per wallet, account or custody provider exceeds EUR 10 000." Given that the value of crypto-assets can fluctuate enormously, and over a short period of time, how should a service provider interpret this prohibition?**
   Last update: 11 April 2022

EU service providers would breach the prohibition in Article 5b(2) if they were to hold crypto assets or the keys to crypto assets on behalf of Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, with a total value exceeding EUR 10 000 per wallet, account or custody provider. EU crypto asset wallet, account or custody services providers should therefore put in place the appropriate safeguards and remedies to avoid ending up servicing clients in the conditions laid down by Article 5b(2). These safeguards and remedies should duly take into account the fact that the value of crypto-assets can fluctuate substantially over a short period of time.

7. CENTRAL SECURITIES DEPOSITORIES

RELATED PROVISION: ARTICLE 5e 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 are 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. **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.

14. **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.

15. **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.

16. **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.

17. **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.

18. **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.

19. **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.

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: 17 May 2022

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 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.

Articles 5e and 5f applying to all transferable securities issued after 12 April 2022, 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) 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, it is necessary to determine if the services are provided to a Russian national or natural person residing in Russia or any legal person, entity or body established in Russia. Indeed, according to the anticircumvention rule, EU 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.

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, is not applicable in that situation because Article 1k excludes securities from the definition of deposits.

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: 2 May 2022

The prohibition laid down in Article 5f of Council Regulation 833/2014 applies to transferable securities issued by both public and private companies after 12 April 2022. 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. SWIFT

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

1. **Some Russian banks were decoupled from the SWIFT financial messaging services. Will it be assessed as circumvention if these banks resort to other means of communication to compensate for their decoupling the Swift network?**
   Last update: 19 April 2022

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 SWIFT and not on the decoupled Russian banks. However, SWIFT [and any other financial messaging service provider there may be in the EU] cannot circumvent this prohibition, pursuant to Article 12 of Council Regulation 833/2014.

2. **The SWIFT channel covers Russian Banks that potentially also have branches and subsidiaries around Europe. Will the SEPA channel for these subsidiaries also be blocked?**
   Last update: 19 April 2022

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, subsidiaries of the credit institutions listed in Annex XIV which are established in Russia are also covered by this prohibition.

3. **Are margin calls exempted from the SWIFT prohibition?**
   Last update: 19 April 2022

No, there are no exemptions from the SWIFT prohibition. It is therefore also prohibited to use the SWIFT system 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, that 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?**
   Last update: 3 May 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.

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: 3 May 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).

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: 22 June 2022

After a wind down period of 6 months, during which contracts signed before 4 June 2022 can still be executed until 5 December, EU operators will be prohibited from insuring and financing the maritime transport of goods set out in Annex XXV to third countries.

14. Does the prohibition to provide technical assistance, financing and financial assistance set out in Article 3n apply to all modes of transport of oil to third states?
Last update: 22 June 2022

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 insure transport including through ship-to-ship transfers in paragraph 1 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: 22 June 2022

No, unless this insurance results from a contract signed before 4 June 2022 and executed until 5 December 2022.

16. Are there any notification requirements which apply to insurers or reinsurers under Article 3m and 3n?

Last update: 22 June 2022

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

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: 5 May 2022

Please refer to the EU sanctions map: www.sanctionsmap.eu
Below you will find the list (last update 05 May 2022). Please note the 6th package of restrictive measures is being adopted.

Russia

- Council Regulation concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine 13.04.2022 consolidated basic legal act - (EU) No 833/2014
- Council Decision concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine 09.04.2022 consolidated basic legal act - 2014/512/CFSP

Belarus

- Council Regulation concerning restrictive measures in respect of Belarus 13.04.2022 consolidated basic legal act - (EC) No 765/2006
- Council Decision concerning restrictive measures in view of the situation in Belarus 09.04.2022 consolidated basic legal act - 2012/642/CFSP

Non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine

- EU Council Regulation concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas 23.02.2022 - (EU) 2022/263
- EU Council Decision concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas 23.02.2022 - (CFSP) 2022/266
- Council Regulation concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas 13.04.2022 - amendments not yet included in the consolidated basic legal act - (EU) 2022/626
- Council Decision concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas 13.04.2022 - amendments not yet included in the consolidated basic legal act - (CFSP) 2022/628

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

- EU Council Decision concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol 23.06.2021 consolidated basic legal act - 2014/386/CFSP
- EU Council Regulation concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol 20.12.2014 consolidated basic legal act - (EU) No 692/2014

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

- Council Decision concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine 14.04.2022 consolidated basic legal act - 2014/145/CFSP
- Council Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine 14.04.2022 consolidated legal act - (EU) No 269/2014
- Council Implementing Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine 21.04.2022 - amendments not yet included in the consolidated basic legal act - (EU) 2022/658
- Council Decision concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine 21.04.2022 - amendments not yet included in the consolidated basic legal act - (CFSP) 2022/660

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 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine 05.03.2021 consolidated basic legal act - 2014/119/CFSP
- Council Regulation concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine 07.12.2021 consolidated basic legal act - (EU) No 208/2014

2. **Are there any specific instructions, guidance, and notices to importers?**
   Last update: 5 May 2022

The following notices have been published:

- Notice (2022/C 87 I/01) to importers on imports of products into the Union under the EU- Ukraine Association Agreement from the non-government controlled areas of the

Donetsk and Lugansk oblast in Ukraine has been published on 23 February 2022 (OJ C 87). You will find the Notice here:
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 Notice here:
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0228%2805%29
- Notice (2022/C 145 I/01) to economic operators, importers and exporters. You will find the Notice here:
Notice 3 2022/C 145 I/01
- FAQ on luxury goods, incl. car spare parts:
Frequently asked questions on luxury goods concerning sanctions adopted following Russia's military aggression against Ukraine and Belarus' involvement in it (europa.eu)
- See also information on the:
Communication providing operational guidelines external border management EU-Ukraine borders_en_1.pdf
Commission Guidance Note on the implementation of certain provisions of Regulation (EU) No 833/2014

You may find also updated list of guidance, FAQs and notices 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 – Pogranični̇nyj, Nida-Morskoje, Nida-Rybači̇j, 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

GOODS ENTERING INTO THE UNION

4. **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

5. **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.

6. **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.

7. **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.

8. 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[1] (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[2]), which does not mean that the horses must stay at least 12 months in the EU. This time limit 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[3] 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.

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.
[2] 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.
[3] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

9. **Can I import under the preferences of the EU-Ukraine Association Agreement from the regions of Donetsk and Lugansk?**
   Last update: 24 March 2022

The European Commission informs in the Notice (2022/C 87 I/01) to importers on imports of products into the Union under the EU-Ukraine Association Agreement from the non-government controlled areas of the Donetsk and Lugansk oblast in Ukraine, that that the necessary conditions for the customs authorities of Ukraine to effectively manage and control the preferential tariff treatment provided under the Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part are not in place for goods produced in or exported from the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine. Consequently importers are advised not to claim preferential treatment for the import into the Union of all goods produced in or exported from the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine.
It is important to note that the Notice does not cover the oblasts of Donetsk and Luhansk as a whole, but only the non-government controlled areas of those oblasts. This implies that preferential tariff treatment under the EU-Ukraine Association Agreement may be claimed for the areas of those oblasts still under the control of Ukrainian authorities.

10. **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.

11. **Article 3j of Regulation (EU) No 833/2014 prohibits 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. We would like to clarify, if this prohibition applies to all CN-codes mentioned in the Annex XXII? Regardless, if: a) the products are coal-based or not? b) the products are solid or not?**
Last update: 1 June 2022

The product scope subject to the restrictions laid down in Article 3j of **Regulation (EU) No 833/2014** is defined in Annex XXII and applies to all CN-codes mentioned in the Annex.
"Coal and other solid fossil fuels" in Article 3j is only a title, a denomination to distinguish a specific domain of the bans. It does not define, limit or expand the product scope defined in Annex XXII.
Similar examples are:
- The title of Annex XXII is "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. Yet, 2706 "Tar distilled from coal, from lignite or from peat..." is fully included in the product scope of article 3j.

GOODS MOVING FROM THE UNION

12. **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.

13. **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.

14. **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*".

15. **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.

16. **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.).

17. 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).

18. 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.

19. 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.

20. **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."*

21. **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.

22. 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 Va 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*.'

23. 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

24. 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)[4] does not provide for any derogation on the extension of the 90-day time limit established in Article 149

[4] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

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).

25. **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 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.

26. **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.

27. 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

28. **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

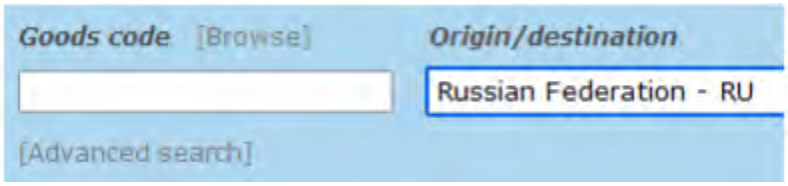
Indeed CN codes for dual-use items are not published in the Official Journal. However, DG TAXUD has published a correlation table between CN codes and dual-use codes. This table lists all CN codes submitted to controls on dual-use items and therefore also submitted to the bans on exports to Russia.

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".

29. 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.

30. **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)

31. **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 stockfarming 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.

Tanking into account above, Agricultural products should not be considered as covering agricultural machinery.

32. **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

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: 16 March 2022

Council Regulation (EU) 2022/328 of 25 February 2022[5] builds on, and expands, the EU restrictive measures (sanctions) in form of export restrictions under the Sanctions Regulation[6]. Unless amended by Council Regulation (EU) 2022/328 or other regulations, the existing provisions of the Sanctions Regulation remain in force and continue to apply.

This Guidance aims at supporting national competent authorities and stakeholders, including exporters, in the implementation of the new export restrictions introduced in Articles 2, 2a and 2b and the related provisions in Articles 1, 2c and 2d of the Sanctions Regulation, as amended in February 2022, without prejudice to the other provisions of that regulation.

2. What does the Sanctions Regulation do in the area of export restrictions, including export controls?
Last update: 16 March 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[7]8. 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 users or uses, with very limited exemptions and derogations.

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, and marine.

Thirdly, the Sanctions Regulation identifies entities connected to Russia's defence and industrial base, on whom even tighter export restrictions are imposed.

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[5] 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.

[6] Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

[7] 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.

[8] 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.

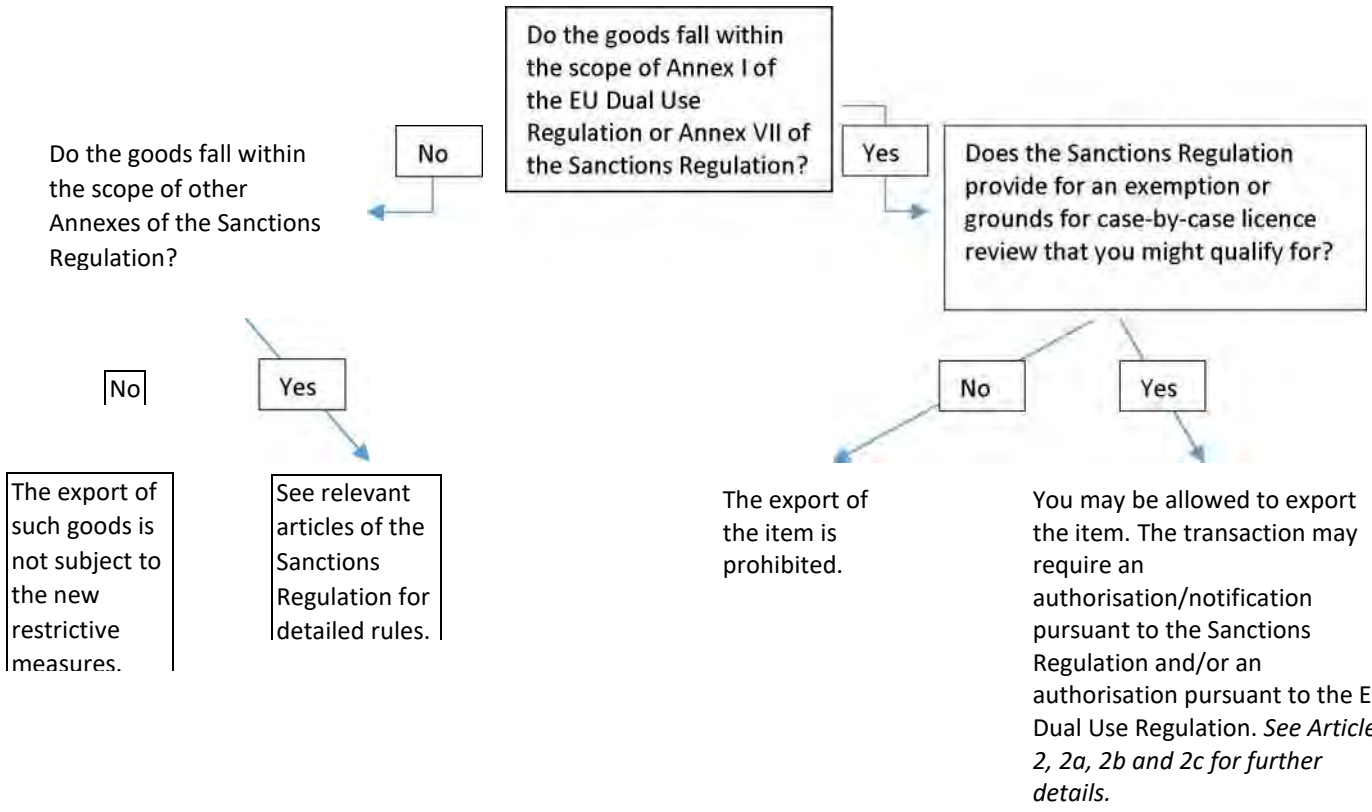
As in other EU sanctions regimes, the export restrictions apply to the sale, supply, transfer and export of covered items, as well as the provision of brokering services and of technical and financial assistance.

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 a case-by-case assessment.

Lastly, the Sanctions Regulation contains an export ban for goods and technology suited for use in aviation or the space industry as well as in the energy sector. 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: 16 March 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 and XI 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 the dual-use and 'Advanced Technology' items?**
   Last update: 16 March 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 cover, among others, humanitarian needs, health emergencies, natural disasters, medical and pharmaceutical uses, temporary exports of equipment for use by news media, items for personal use. Derogations cover, among others, exports intended for government-to- government cooperation, exports intended for civilian telecommunications networks, 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, or exports covered by prior contracts.

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 Art. 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 aviation or space industry.

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 new Sanctions Regulation relate to the existing Dual-Use Regulation? Does it supersede it? Do both continue to apply?**
   Last update: 16 March 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 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, no prior authorisation is required under the Sanctions Regulation. For dualuse items, however, an authorisation might still be required under the 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 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 end-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 nor under the Sanctions Regulation may still be subject to control under the "catch-all clause" of the Dual-Use Regulation, i.e. to ensure that they are not for military end-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) and 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: 16 March 2022

The notification to the national competent authority and the request for authorisation must 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 national 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: 16 March 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 'Advanced technology' items pursuant to the Sanctions Regulation.

However, for items listed in Annex I to the EU Dual-Use Regulation, the "principal element" note continues to apply. This means that non-controlled items containing one or more components listed in that Annex remain subject to export controls rules pursuant to the EU Dual-Use Regulation, including the 'principal elements rule'.

12. What situations are covered by the exemptions under the Sanctions Regulation?
Last update: 16 March 2022

Articles 2(3) and 2a(3) of the Sanctions Regulation provide for seven 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:

(a) 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;
(b) medical or pharmaceutical purposes;
(c) temporary export of items for use by news media;
(d) software updates;
(e) use as consumer communication devices;
(f) 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; or
(g) 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.

13. What situations are covered by the case-by-case derogations under the Sanctions Regulation?
Last update: 16 March 2022

Articles 2(4) and 2a(4) of the Sanctions Regulation provide for eight derogations where an authorisation must be requested from the national 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 telecommunications networks, including the provision of internet services;
(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) the diplomatic representations of the Union, Member States and partner countries, including delegations, embassies and missions.

For contracts concluded before 26 February 2022, please check questions 25 to 27. For situations with individuals or entities listed in Annex IV, please check question 17.

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 national 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, declarations from the exporter (self-declaration).

15. Can you explain in more detail how exemptions and derogations operate concerning the exports of Dual-use items and 'Advanced Technology' items?
Last update: 16 March 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 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 25-27.

- For 'Advanced Technology' items as listed in Annex VII to the Sanctions Regulation:
  - if the intended end-use falls under the scope of the seven 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 and a case-by-case assessment is made 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 25 to 27.

In addition, as regards aviation and space industry items, please see question 4, which confirms that the derogation and exemptions above are not available for those sectors.

16. 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 national 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.

17. 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: 16 March 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 case-by-case authorisation by national 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 national competent authority, but trade must stop until such authorisation is granted. Such

authorisations shall be 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 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.

18. **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 25-27.

19. **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.

20. **How did you select the individuals and entities listed in Annex IV of the Sanctions Regulation?**
Last update: 16 March 2022

The individuals and entities on the extended list are certain end-users connected to Russia's defence and industrial base. They were also selected in cooperation with our partner countries.

21. **Does an export restriction, such as the one set out in Article 3b of Council Regulation (EU) 833/2014, prohibit a payment or a reimbursement in relation to the sale, supply, transfer or export of the goods subject the restriction beyond the date after which contracts signed prior to the adoption of the measure can no longer be executed by EU operators (in the case of Article 3b, 27 May 2022) ?**
Last update: 25 May 2022

Provided that the contract for sale, supply, transfer or export of such goods was signed prior to the adoption of the restriction and that such operation is executed by the EU operator prior to the date set in the Regulation (27 May 2022), the Regulation does not prohibit a payment or reimbursement by the Russia counterpart in relation to such operation after 27 May 2022.

22. **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

23. **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.

24. **What is the "indicative temporary correlation table" linking customs codes to items in Annex VII?**
Last update: 16 March 2022

Annex VII to the Sanctions Regulation listing 'Advanced Technology' items does not contain commodity (customs) codes.

The Annex 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[9] and as set out in Annex I thereto, which are valid at the time of publication of the Sanctions Regulation.

25. 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.

Heavy trucks understood as road trucks for semi-trailers are covered by item X.A.VII.001.c in the same annex.

26. 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

[9] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

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[10]. A copy of that list is available on the dedicated website of the Commission.

27. I have a contract with a Russian company involving the exports of an item covered by the Sanctions Regulation. Can I continue to export to them?
Last update: 16 March 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 nonmilitary users provided the exporter requests such an authorisation before 1 May 2022. These authorisations shall be assessed by the national competent authority on a case-by-case basis 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 and agreements.

National competent authorities 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, the goods might have a military end-use or the exports is intended for aviation or the space industry.

If the contract has been concluded before 26 February directly with an individual or entity listed in Annex IV, national competent authorities could authorise their continuation provided the exporter requests such an authorisation before 1 May 2022.

There is no reference in the Sanctions Regulation to the period of validity of such authorisation.

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.

28. 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

[10] 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.

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[11]. A copy of that list is available on the Dual-use export control webpage of the Commission.

29. 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: 16 March 2022

No. The derogations in Articles 2(5) and 2a(5) are intended for non-military uses and for non-military 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.

30. 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 those parts of the contract concerning after-sale services.

[11] 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.

31. 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 national 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.

32. 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 national 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.

33. **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.

34. **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 25-27.

35. **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 national 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 national competent authority to annul, suspend, modify or revoke export authorisations.

The Sanctions Regulation allows the national 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.

36. Does the Sanctions Regulation prohibit imports from Russia to an EU Production Organisation Approval holder? Are Russia-based suppliers or subcontractors of EU/EASA Production Organisation Approval holders affected by the measures?
Last update: 16 March 2022

The Sanctions Regulation does not affect imports from Russia.

However, EU importers should perform adequate due diligence and ensure that these imports and the associated payments do not breach other EU restrictive measures.

Notably, Council Regulation (EU) No 269/2014[12] imposes an asset freeze on certain targeted persons and prohibits the making available of funds or economic resources to them, whether directly or indirectly. This includes payment for goods and services.

In addition, Council Regulation (EU) No 692/2014[13] prohibits imports from Crimea and Sevastopol, and Council Regulation (EU) 2022/263[14] prohibits imports from the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine. The risk of diversion through Russia should be duly taken into account.

More details about the EU restrictive measures adopted in response to the crisis in Ukraine are available on the EU Sanctions Map[15].

[12] 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, OJ L 78, 17.3.2014, p. 6-15.
[13] Council Regulation (EU) No 692/2014 of 23 June 2014 concerning restrictive measures in response to the illegal annexation of Crimea and Sevastopol, OJ L 183, 24.6.2014, p. 9.
[14] Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine and the ordering of Russian armed forces into those areas, OJ L 42I, 23.2.2022, p. 77-94.
[15] https://www.sanctionsmap.eu

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, even for civilian uses, as of 26 February 2022. Some exemptions and derogations listed in the Sanctions Regulation, as well as the application of 'grandfathering clause', still allow export of dual-use items in very specific cases and under very strict conditions, including the need for additional export authorisations.

That being said, the Sanctions Regulation does not oblige the national competent authorities to suspend or revoke licences granted under the 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: 16 March 2022

No. The Sanctions Regulation applies from 26 February 2022. It does not provide specific flexibilities for items that were under way inside the European Union on that date.

39. 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 Article 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.

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).

40. 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).

41. Does the Sanctions Regulation affect the export of controlled goods shipped in transit through Russia by land to third countries?
Last update: 16 March 2022

The Sanctions Regulation does not affect the export of controlled goods to be delivered in third countries, even if transiting through Russia. One element to be considered is the high risk of diversion of such items or any other possible risk of circumvention of the Sanction Regulation.

42. 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 31.

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.

43. 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.

44. 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: 16 March 2022

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, national 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.

45. 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.

46. 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 Ireland / 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.

47. 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.

WORK WITH PARTNER COUNTRIES

48. 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 will be 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.

49. Who are the partner countries and what benefits do they enjoy pursuant to the Regulation?
Last update: 16 March 2022

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 26 February 2022, it includes the U.S. 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.

50. 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 US will not apply extraterritorial controls to items, where 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

51. 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 – Indicative temporary correlation table for items listed in Annex VII of the Sanctions Regulation

ANNEX VII TO REGULATION (EU) 2022/328

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) 2022/328, 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 (flashdrive, 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 2022 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)

Annex VII code	Control list (short description)	Related 2022 CN Code
X.A.I.001.a	"Microprocessor microcircuits", "microcomputer microcircuits", and microcontroller microcircuits…	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.b	Storage integrated circuits…	8542.32.45
		8542.32.69
		8542.32.75
X.A.I.001.c	Analog-to-digital converters…	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.d	Field programmable logic devices having a maximum number of single-ended digital input/outputs between 200 and 700;	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.e	Fast Fourier Transform (FFT) processors having a rated execution time for a 1 024 point complex FFT of less than 1 ms;	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.f	Custom integrated circuits…	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.g	Traveling-wave "vacuum electronic devices"…	8542.31.11
		8542.31.19
		8542.31.90
X.A.I.001.h	Flexible waveguides designed for use at frequencies exceeding 40 GHz	8543.30.70
X.A.I.001.i	Surface acoustic wave and surface skimming acoustic wave devices…	8543.70.06
X.A.I.001.j	Cells as follows **1.** "Primary cells" having an "energy density" of 550 Wh/kg or less at 293 K (20°C); **2.** "Secondary cell	8506.50.10
		8506.50.90
		8507.60.00
X.A.I.001.k	"Superconductive" electromagnets or solenoids "specially designed"…	8505.90.29
X.A.I.001.l	Circuits or systems for electromagnetic energy storage…	8504.40.90
		8504.50.00
X.A.I.001.m	Hydrogen/hydrogen-isotope thyratrons…	8540.89.00

X.A.I.001.o	Solar cells, cell-interconnect-coverglass assemblies, solar panels, and solar arrays…	8541.42.00
		8541.43.00
X.A.I.002.a	Electronic test equipment…	9030.10.00
		9030.20.00
		9030.31.00
		9030.32.00
		9030.33.20
		9030.33.70
		9030.39.00
		9030.40.00
		9030.82.00
		9030.84.00
		9030.89.00
		9030.90.00
X.A.I.002.b	Digital instrumentation magnetic tape data recorders…	8542.31.11
		8542.31.19
X.A.I.002.c	Equipment to convert digital video magnetic tape recorders…	8542.31.11
		8542.31.19
X.A.I.002.d	Non-modular analog oscilloscopes…	9030.20.00
X.A.I.002.e	Modular analog oscilloscope systems…	9030.20.00
X.A.I.002.f	Analog sampling oscilloscopes…	9030.20.00
X.A.I.002.g	Digital oscilloscopes and transient recorders…	9030.20.00
X.A.I.003.a	Frequency changers…	8504.40.84
		8504.40.88
		8504.40.90
X.A.I.003.b	Mass spectrometers	9027.81.00
X.A.I.003.c	All flash x-ray machines…	9022.19.00
		9022.29.00
		9022.30.00
		9022.90.20
X.A.I.003.d	Pulse amplifiers…	8543.70.02
		8543.70.30
		8543.70.90
X.A.I.003.e	Electronic equipment for time delay generation or time interval measurement…	9027.89.90
X.A.I.003.f	Chromatography and spectrometry analytical instruments…	9027.20.00
		9027.30.00
X.B.I.001.a	Equipment “specially designed” for the manufacture of electron tubes, optical elements and “specially designed” “parts” and “components” therefor…	8464.20.11
		8475.10.00
X.B.I.001.b.1.a	Equipment for producing polycrystalline silicon and materials controlled by 3C001…	8486.10.00
X.B.I.001.b.1.b	Equipment “specially designed” for purifying or processing III/V and II/VI semiconductor materials…	8486.10.00
X.B.I.001.b.1.c	Crystal pullers and furnaces…	8486.10.0
X.B.I.001.b.1.d	“Stored program controlled” equipment for epitaxial	8486.10.00

X.B.I.001.b.1.e	Molecular beam epitaxial growth equipment	8486.10.00
X.B.I.001.b.1.f	Magnetically enhanced ‘sputtering’ equipment…	8486.10.00
X.B.I.001.b.1.g	Equipment “specially designed” for ion implantation, ion-enhanced or photo-enhanced diffusion…	8486.10.00
X.B.I.001.b.1.h	“Stored program controlled” equipment for the selective removal…	8486.10.00
X.B.I.001.b.1.i	“Chemical vapor deposition” (CVD) equipment…	8486.10.00
X.B.I.001.b.1.j	Electron beam systems…	8486.10.00
X.B.I.001.b.1.k	Surface finishing equipment for the processing of semiconductor wafers…	8486.10.00
X.B.I.001.b.1.l	Interconnection equipment…	8486.10.00
X.B.I.001.b.1.m	“Stored program controlled” equipment using “lasers”…	9011.20.10 9031.41.00
X.B.I.001.b.2.a	Finished masks, reticles and designs therefor…	3701.99.00
X.B.I.001.b.2.b	Mask “substrates”…	3701.99.00
X.B.I.001.b.2.c	Equipment “specially designed” for computer aided design (CAD) of semiconductor devices or integrated circuits…	8486.10.00
X.B.I.001.b.2.d	Equipment or machines, as follows, for mask or reticle fabrication…	8486.10.00
X.B.I.001.b.2.e	“Stored program controlled” equipment for the inspection of masks, reticles or pellicles…	9011.20.10 9031.41.00
X.B.I.001.b.2.f	Align and expose equipment for wafer production…	8486.10.00
X.B.I.001.b.2.g	Electron beam, ion beam or X-ray equipment for projection image transfer	8486.10.00
X.B.I.001.b.2.h	Equipment using lasers for direct write of wafers capable of producing paterns less than 2,5 micrometers…	8486.20.00
X.B.I.001.b.3	“Stored program controlled” die bonders…	8486.20.00
X.B.I.001.b.3	“Stored program controlled” equipment for producing multiple bonds in a single operation…	8486.20.00
X.B.I.001.b.3	Semi-automatic or automatic hot cap sealers…	8486.20.00
X.B.I.001.b.4	Filters for clean rooms…	8421.99.90
X.B.I.002.a	Equipment “specially designed” for the inspection or	9031.80.80
X.B.I.002.b	Equipment “specially designed” for the inspection or testing of semiconductor devices, integrated circuits and “electronic assemblies”…	9030.82.00 9031.41.00
X.C.I.001	Positive resists designed for semiconductor lithography specially adjusted (optimised) for use at wavelengths between 370 and 193 nm.	3920.10.23 8486.90.00
X.A.II.001.a	Electronic computers and related equipment, and “electronic assemblies” and “specially designed” “parts” and “components” therefor, rated for operation at an ambient temperature above 343 K (70°C)	8471.41.00 8471.49.00 8471.50.00 8471.80.00
X.A.II.001.b	“Digital computers”, including equipment of “signal processing” or image enhancement”, having an “Adjusted Peak Performance” (“APP”) equal to or greater than 0.0128 Weighted Tera FLOPS (WT)	8471.41.00 8471.49.00 8471.50.00 8471.80.00
X.A.II.001.c		8471.41.00

	"Electronic assemblies" that are "specially designed" or modified to enhance performance by aggregation of processors	8471.49.00
		8471.50.00
		8471.80.00
X.A.II.001.f	Equipment for "signal processing" or "image enhancement" having an "Adjusted Peak Performance" ("APP") equal to or greater than 0.0128 Weighted TeraFLOPS WT	8471.41.00
		8471.49.00
		8471.50.00
		8471.80.00
X.A.II.001.i	Equipment containing "terminal interface equipment" exceeding the limits in 5A991	8471.41.00
		8471.49.00
		8471.50.00
		8471.80.00
X.A.II.001.j	Equipment "specially designed" to provide external interconnection of "digital computers" or associated equipment that allows communications at data rates exceeding 80 Mbyte/s	8471.41.00
		8471.49.00
		8471.50.00
		8471.80.00
X.A.II.001.k	"Hybrid computers" and "electronic assemblies" and "specially designed" "parts" and "components" therefor containing analog-to-digital converters	8471.41.00
		8471.49.00
		8471.50.00
		8471.80.00
X.A.III.101.a	Any type of telecommunications equipment, not controlled by 5A001.a, "specially designed" to operate outside the temperature range from 219 K (-54 °C) to 397 K (124 °C)	8517.61.00
		8517.62.00
		8517.69.30
		8517.69.90
		8517.79.00
X.A.III.101.b.1	Employing digital techniques …	8517.69.30
		8517.69.90
X.A.III.101.b.2	Modems using the 'bandwidth of one voice channel' with a "data signaling rate" exceeding 9,600 bits per second	8517.69.30
		8517.69.90
X.A.III.101.b.3	Being "stored program controlled" digital cross connect equipment with "digital transfer rate" exceeding 8.5 Mbit/s per port.	8517.69.30
		8517.69.90
X.A.III.101.b.4	Being equipment containing …	8517.69.30
		8517.69.90
X.A.III.101.b.5	Employing a "laser" …	8517.69.30
		8517.69.90
X.A.III.101.b.6	Radio equipment operating at input or output frequencies exceeding …	8517.69.30
		8517.69.90
X.A.III.101.b.7	Being radio equipment employing …	8517.69.30
		8517.69.90
X.A.III.101.c.1	Data (message) switching" equipment or systems designed for "packet-mode operation" and "parts," electronic assemblies and "components" therefor,	8517.62.00
X.A.III.101.c.3	Routing or switching of 'datagram' packets	8517.62.00
X.A.III.101.c.5	Multi-level priority and pre-emption for circuit switching	8517.62.00

X.A.III.101.c.6	Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch	8517.62.00
X.A.III.101.c.7	Containing “stored program controlled” digital cross connect equipment with “digital transfer rate” exceeding 8.5 Mbit/s per port	8517.62.00
X.A.III.101.c.8	“Common channel signaling” operating in either nonassociated or quasi-associated mode of operation	8517.62.00
X.A.III.101.c.9	‘Dynamic adaptive routing’	8517.62.00
X.A.III.101.c.1	Being packet switches, circuit switches and routers	8517.62.00
X.A.III.101.c.1	“Optical switching”	8517.62.00
X.A.III.101.c.1	Employing ‘Asynchronous Transfer Mode’ (‘ATM’)	8517.62.00
X.A.III.101.d	Optical fibres and optical fibre cables of more than 50 m in length designed for single mode operation	8536.70.00
X.A.III.101.e	Centralized network control…	8517.61.00
X.A.III.101.f	Phased array antennas…	8517.71.00
X.A.III.101.f		8529.10.69
X.A.III.101.g	Mobile communications equipment…	8517.13.00
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		8517.79.00
X.A.III.101.h	Radio relay communications equipment…	8517.62.00
X.B.III.101	Telecommunications test equipment…	9030.10.00
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		9030.39.00
		9030.40.00
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		9030.84.00
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X.C.III.101	Preforms of glass or of any other material optimized for the manufacture of optical fibres	7002.20.10
X.A.IV.001	Marine or terrestrial acoustic equipment…	9014.80.00
X.A.IV.002.a	Image intensifier tubes…	9022.90.80
X.A.IV.002.b	Direct view imaging equipment…	8525.83.00
X.A.IV.003	Cameras that meet the criteria of Note 3 to 6A003.b.4.	8525.83.00
X.A.IV.004.a	Optical filters…	9002.20.00
X.A.IV.004.b	“Fluoride fibre” cable, or optical fibres thereof…	8536.70.00
X.A.IV.005.a	Carbon dioxide (CO2) “lasers”	9013.20.00
X.A.IV.005.b	Semiconductor lasers…	9013.20.00
		9013.80.00
X.A.IV.005.c	Ruby “lasers”…	9013.20.00
X.A.IV.005.d	Non- “tunable” “pulsed lasers”…	9013.20.00

X.A.IV.005.e	Non- “tunable” continuous wave “(CW) lasers”…	9013.20.00
X.A.IV.005.f	Non-“tunable” “lasers”…	9013.20.00
X.A.IV.005.g	Free electron “lasers”…	9013.20.00
X.A.IV.006	“Magnetometers”, “Superconductive” electromagnetic	9015.80.20
X.A.IV.007	Gravity meters…	9015.80.20
X.A.IV.008	Radar systems…	8526.10.00
X.A.IV.009.a	Seismic detection equipment…	9015.80.20
X.A.IV.009.b	Radiation hardened TV cameras…	8525.82.00
X.A.IV.009.c	Seismic intrusion detection systems…	9031.80.80
X.B.IV.001.a	Equipment, including tools, dies, fixtures or gauges for the manufacture or inspection of free electron “laser” magnet wigglers	9031.49.90
X.B.IV.001.b	Equipment, including tools, dies, fixtures or gauges for the manufacture or inspection of free electron “laser” photo injectors	9031.49.90
X.C.IV.001	Optical sensing fibres…	8536.70.00
X.C.IV.002.a	Low optical absorption materials… fluorides of zirconium or aluminum	2826.12.00
		2826.19.90
X.C.IV.002.b	‘Optical fibre preforms’…	7002.20.10
X.A.V.001	Airborne communications equipment, all "aircraft" inertial navigation systems, and other avionic equipment, including components	8517.69.30
		8526.91.20
		9014.10.00
		9014.20.20
		9014.20.80
		9014.90.00
X.B.V.001	Other equipment for the test, inspection, or “production” of navigation and avionics equipment	9030.82.00
X.A.VI.001.a	Underwater vision systems…	9006.30.00
X.A.VI.001.b	Photographic still cameras “specially designed” or modified for underwater use, having a film format of 35 mm or larger, and having autofocusing or remote focusing “specially designed” for underwater use	9006.30.00
X.A.VI.001.c	Stroboscopic light systems, “specially designed” or modified for underwater use, capable of a light output energy of more than 300 J per flash	9029.20.90
X.A.VI.001.d	Other underwater camera equipment…	9006.30.00
X.A.VI.001.f	Vessels	8901.10.10
		8901.10.90
		8901.20.10
		8901.20.9
		8901.30.10
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		8901.90.90
		8902.00.10
		8902.00.90
		8903.21.00

		8903.22.10
		8903.22.90
		8903.23.10
		8903.23.90
		8903.31.00
		8903.32.10
		8903.32.90
		8903.33.10
		8903.33.90
		8903.93.10
		8903.93.90
		8903.99.10
		8903.99.90
		8904.00.10
		8904.00.91
		8904.00.9
		8905.10.10
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		8905.90.90
		8906.10.00
		8906.90.10
		8906.90.91
		8906.90.99
		8908.00.00
X.A.VI.001.g	Marine engines (both inboard and outboard) and submarine engines	8406.10.00
		8407.21.10
		8407.21.91
		8407.21.99
		8407.29.00
		8408.10.11
		8408.10.19
		8408.10.23
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		8408.10.69
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		8408.10.79
		8408.10.81

		8408.10.89
		8408.10.91
		8408.10.99
X.A.VI.001.h	Self-contained underwater breathing apparatus (scuba gear) and related equipment	9506.29.00
X.A.VI.001.i	Life jackets, inflation cartridges, dive compasses and dive computers	9506.29.00
X.A.VI.001.j	Underwater lights and propulsion equipment	9405.42.10
		8906.90.10
X.A.VI.001.k	Air compressors and filtration systems “specially designed” for filling air cylinders.	8414.40.10
X.A.VII.001.a	Diesel engines, other than those specified in the CML or in Regulation (EU) 2021/821, for trucks, tractors, and automotive applications, having an overall power output of 298kW or more.	8408.20.37
		8408.20.99
X.A.VII.001.b	Off highway wheel tractors of carriage capacity 9 t or more; and major components and accessories, other than those specified in the CML or in Regulation (EU) 2021/821.	8701.95.10
X.A.VII.001.c	Road tractors for semi-trailers, with single or tandem rear axles rated for 9 t per axel or more and specially designed major components	8701.95.90
X.A.VII.002.c	Gas turbine engines and components, other than those specified in the CML or in Regulation (EU) 2021/821	8411.11.00
		8411.12.10
		8411.12.30
		8411.12.80
		8411.21.00
		8411.22.20
		8411.22.80
		8411.82.80
		8411.91.00
X.A.VII.002.e	Pressurized aircraft breathing equipment	9020.00.10
		9020.00.90
X.B.VII.001	Vibration test equipment and “specially designed” “parts” and “components,”…	9031.20.00
		9031.80.20
X.B.VII.002.a	Automated equipment using non-mechanical methods for measuring airfoil wall thickness	9031.80.20
X.B.VII.002.b	Tooling, fixtures or measuring equipment for the “laser”, water jet or ECM/EDM hole drilling processes…	8466.10.20
		8466.10.38
		8466.20.20
		8466.20.98
		8466.93.50
		8466.93.60
X.B.VII.002.c	Ceramic core leaching equipment	8454.30.90
X.B.VII.002.d	Ceramic core manufacturing equipment or tools	8514.11.00
		8514.19.80

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[16]. 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[17], 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).

[16] 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.
[17] 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.

5. PURCHASE OF LISTED GOODS

RELATED ARTICLES: ARTICLE 3g, ARTICLE 3i, ARTICLE 3j OF COUNCIL REGULATION 833/2014

1. **Is the purchase of goods listed in Annexes XVII, Annex XXI and XXII of Council Regulation 833/2014 by an EU company allowed when the goods are exported from Russia towards a third country and are not transiting Union territory?**
   Last update: 14 June 2022

No. Articles 3g, 3i and 3j of Council Regulation 833/2014 prohibit the purchase, import, or transfer, directly or indirectly, of the goods listed in Annexes XVII, XXI and XII 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.

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. **Does "purchase" also refer to restricted goods that are already released for free circulation within the territory of the Union before the restrictive measures?**
   Last update: 14 June 2022

No. The restrictions envisaged in Article Articles 3g, 3i, 3j and 3m of Council Regulation 833/2014 do not concern goods which are already released for free circulation within the territory of the Union (i.e. placing on the market) at the time when the respective measure becomes applicable.

6. TRADE IN AGRICULTURAL AND RELATED PRODUCTS FROM RUSSIA

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 the 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).

7. TRADE IN AGRICULTURAL AND RELATED PRODUCTS FROM UKRAINE

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 and Luhansk oblasts of Ukraine or Crimea/Sevastopol, into/through the Union?**
   Last update: 22 June 2022

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 and Luhansk 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 and Luhansk 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 and Luhansk oblasts of Ukraine, or from Crimea and Sevastopol?**
Last update: 22 June 2022

Imports of agricultural products originating from non-government controlled areas of the Donetsk and Luhansk 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).

8. 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.

9. 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).

10.OBLASTS

RELATED PROVISION: REGULATION 2022/263

1. **How should operators assess which areas in the Donetsk and Luhansk oblasts are subject to restrictions?**
   Last update: 30 March 2022

Council Regulation (EU) No 2022/263 covers all areas of the Donetsk and Luhansk oblasts of Ukraine that are not under the control of the authorities of Ukraine at the time of the import of the goods. Considering the fluid situation, a dynamic assessment could be necessary. When it comes to the application of the preferences under the Association Agreement (AA) between the EU and Ukraine, Ukraine does not issue certificates of origin for goods originating in the non-government controlled areas of its Donetsk and Lugansk oblasts. In addition, Ukraine has withdrawn offices in those areas from the list of authorised offices to issue certificates of origin. On 23 February the Commission published a 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 may be imported under preferences from the areas of the Donetsk and Luhansk oblasts that are under the control of the authorities of Ukraine.

E. ENERGY

1. OIL IMPORTS

RELATED PROVISION: ARTICLE 3m 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: 22 June 2022

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. It is therefore still possible to ship those goods to third countries, provided this does not entail any risk of circumvention of the measures set out in Article 3m. However, as set out in Article 3n, the technical assistance, financing or any financial assistance in relation to maritime transport of such products to third countries is prohibited.

2. **Does Article 3m prohibit imports into the Union of goods listed in Annex XXV which originate in Russia but are blended for transport with goods listed in the Annex and which originate in a third country?**
   Last update: 22 June 2022

Article 3m paragraph 1 prohibits, subject to certain exceptions and derogations, imports of goods set out in Annex XXV if such goods originate from Russia or are exported from Russia.

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.

Russian oil transported together with oil of other origin in mixed fashion is subject to the prohibition: As oil is a fungible material that cannot be physically segregated depending on its origin, Russian originating oil imported, transferred or purchased in the EU together with oil of other origin is subject to the sanctions, unless the exact share of the product which does not originate in Russia can be clearly demonstrated to the national authorities of the Member State. In such a case, the exact portion not originating in Russia can be allowed into the Union.

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

The same approach specified in 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: 22 June 2022

For the time being, there are no restrictions of import by pipeline of oil from Russia, and hence neither from third countries transiting through 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 to determine if the resulting product can be transferred or transported onwards to other Member States or third countries.

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. Is the purchase of Russian seaborne crude oil by an EU company allowed when the goods are exported from Russia towards a third country and are not transiting Union territory?
Last update: 14 June 2022

Yes. Contrary to Articles 3g, 3i and 3j of Council Regulation 833/2014, Article 3m of Council Regulation 833/2014 prohibits only the purchase, import, transfer of Russian seaborne crude oil that is destined for import into Member States, as highlighted in recital 15 by Council Regulation 2022/879 of 3 June 2022 amending Council Regulation 833/2014. An EU company is still allowed to transport Russian crude oil to a third country.

2. 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.

3. 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.

F. OTHER FIELDS

1. MEDIA

RELATED PROVISION: ARTICLE 2f OF COUNCIL REGULATION 833/2014

1. On what grounds has the EU imposed restrictions on Russia Today and Sputnik?

Last update: 23 March 2022

RT/Russia Today and Sputnik 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[18]. 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 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 including by acting as a substitute for natural or legal persons, entities or bodies targeted by the Regulation.

[18] 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: 23 March 2022

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.

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 content created by the targeted entities?**
   Last update: 23 March 2022

Media have the freedom to report objectively on current events and to form their opinions thereon, and users have the right to receive objective information on current events. In particular, where a media outlet other than Russia Today and Sputnik reports about the current Regulation and it consequences, it may inter alia provide the content and in that regard it may refer to pieces of news by Russia Today and Sputnik, in order to illustrate the type of information given by the two Russian media outlets concerned with a view to informing their readers/viewers objectively and completely.

At the same time, freedom of speech can be restricted for legitimate public interests in a proportionate manner. Freedom of speech cannot be relied on by other media outlets to circumvent the Regulation. The non-circumvention equally applies to journalists. Therefore, if another media outlet or journalist purports to inform its readers/viewers, but in reality its conduct aims at broadcasting Russia Today or Sputnik content to the public or has that effect, it will be in breach of the prohibition laid down in the Regulation.

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 non-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.

2. AVIATION

RELATED PROVISION: 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:

1. Operators need to seek derogation (including humanitarian[19]) 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
2. 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.
3. 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.

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

[19] Humanitarian flight; repatriation flight, other derogation – see Q18.

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…).

e 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.

3. ACCESS 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[20] (which also links to EQUASIS[21], 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.

[20] Established under Directive 2002/59/EC

[21] 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: 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. 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 and 5.

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. 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 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine?
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.

Following this question, should the vessel be admitted to port and detained or should it not be allowed to enter the EU port?

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.

13. **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.

14. **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.

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

Yes.

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 and Belarus after 16 April 2022 when these carry out goods transit between mainland Russia and the Kaliningrad region?**
   Last update: 14 April 2022

Council Regulation 833/2014 prohibits the export, import and transfer of several items between the EU and Russia. Specifically, with regard to road transport, Article 3l includes transit through the territory of EU Member States in the scope of the prohibition. Therefore, transit between Kaliningrad and mainland Russia via EU Member States of items falling within the scope of the measures is also prohibited.

It falls on Member States to carry out checks so as to enforce the EU restrictive measures. Those checks shall be justified and proportionate, and should be performed in a way that is compatible with the effectiveness of the special arrangements enabling rail and road transit of persons and goods between Kaliningrad and mainland Russia.

Transit of non-restricted goods between Kaliningrad and mainland Russia is not restricted, including by Russian road-transport companies, as this specific transit has been exempted by Article 3l(2)(b) of Council Regulation 833/2014 from the general prohibition for Russian companies to transport goods by road within the territory of the Union, including in transit (Article 3l(1)).

Member States are responsible for enforcing this general prohibition within their territory and, therefore, where applicable, of distinguishing between legal transit of non-restricted goods between Kaliningrad and mainland Russia, and transit to-and-from other territories. In this respect, the restrictions to goods in transit between mainland Russia and Kaliningrad are to be applied in the same way as for the transit of restricted goods exported to or imported from Russia or Belarus.

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.

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 of the direction" mean?

Last update: 1 June 2022

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 paragraph.

Commission opinion of October 2019 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".*

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 XXII coal products from an entity listed in Annex XIX, in circumstances where the contract is entered into after 9 April 2022?**
   Last update: 8 June 2022

Article 5aa(3)(c) should be read in conjunction with Article 3j, in particular the wind-down period provided for in paragraph 3. Accordingly, transactions falling under the scope of Article 5aa(3)(c) are possible until 10th August 2022 only for contracts concluded before 9 April 2022.

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: 22 June 2022

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.

However, should the insured damage materialize, an EU insurer would not 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.

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[22]; 2014/24/EU[23]; 2014/25/EU[24]; 2009/81/EC[25]) 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).

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.

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[22] 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.

[23] 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.

[24] 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.

[25] 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.

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

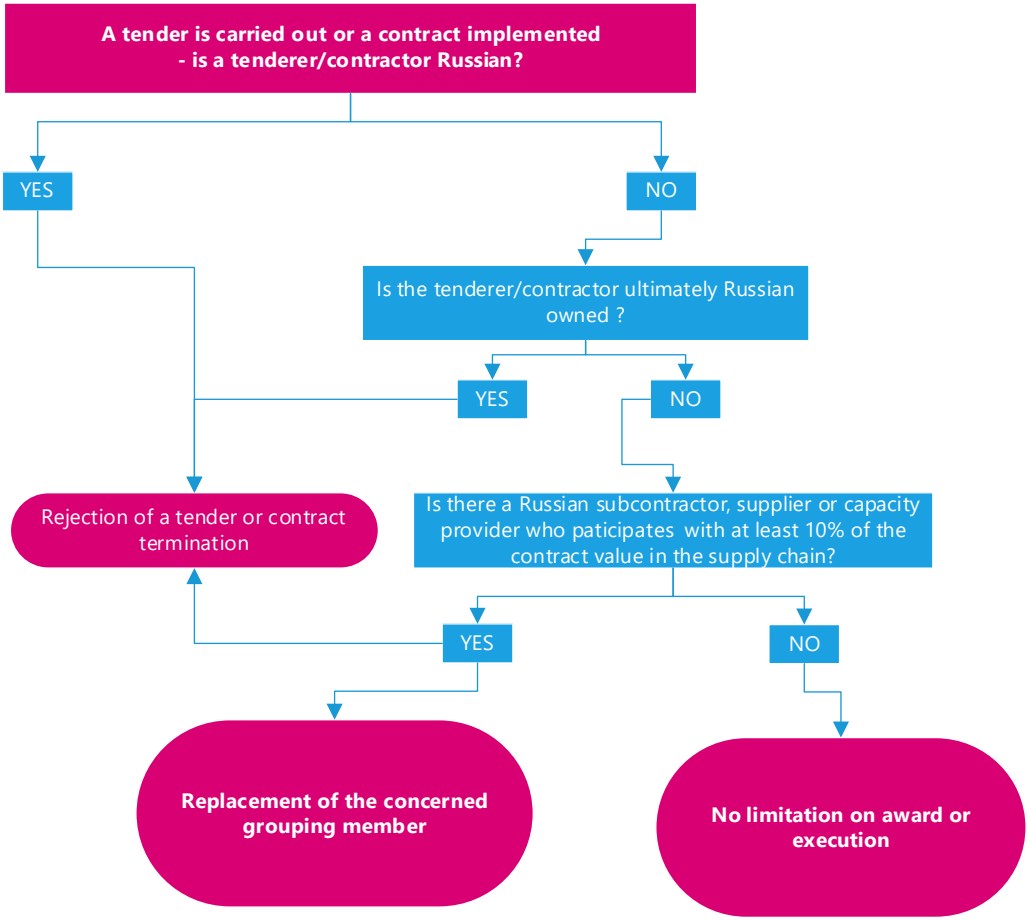
Additionally, the competent national authority may authorise the award and continued execution of contracts related to:

- 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?
Last update: 12 May 2022

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, as amended by Council Regulation (EU) No 2022/578 of 8 April 2022. 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).*

- In case of any doubts, public buyers should request additional information, explanation or documents.

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.

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[26] and the asylum crisis situation[27] 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.

[26] 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.

[27] 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.

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).

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.[28] Nevertheless, all the rules on the protection of personal data (GDPR)[29] 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 :

[28] Regulation (EU) 2016/679.

[29] Regulation (EU) 2016/679.

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 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.

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: 2 May 2022

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[30] 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 granted by the relevant national competent authority. Please refer here to Article 3d of Council Regulation (EU) No 833/2014.

[30] Note that export restrictions also include prohibitions to provide financial and technical assistance, which can also benefit from humanitarian exemptions.

- 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) 2022/626 of 13 April 2022 amending Regulation (EU) 2022/263 concerning restrictive measures in response to the recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and the ordering of Russian armed forces into those areas 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 and Luhansk 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 and Luhansk oblasts of Ukraine, where necessary for humanitarian purposes. Please refer here to Article 4a and Article 5a of Council Regulation (EU) 2022/263.

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 BUSINESS 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: 24 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) 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[31].

- 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.

Furthermore, Article 5n excludes from the scope of the above-mentioned services:

(i) any service that is strictly necessary for the termination of contracts concluded before 4 June for the provision of the abovementioned services or of ancillary contracts. The termination of those contracts has to occur by 5 July 2022;
(ii) any service that is strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy;
(iii) any service provided to an entity established in Russia Federation that is 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.

[31] **See** Recital (26) of Council Regulation 2022/879 of 3 June 2022, amending Council Regulation 833/2014.

2. **Do public relations services falling under the prohibition of Article 5n also include lobbying activities?**
Last update: 24 June 2022

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,

- the provision of legal and other professional advice to clients in specific circumstances;
- 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.

3. **Is the provision of legal services prohibited? Why does Article 5n(3) provide an exception for 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?**
Last update: 24 June 2022

Legal services are not covered by the scope of the prohibition on the provision of certain business-relevant services in Article 5n(1). That means the sanctions do not impede the standard legal services performed by service providers in the context of e.g. civil law, family law or company law, such as for transfers of immovable property.

Article 5n(3) allows the provision of any services prohibited by Article 5n(1) in so far as they are strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective legal remedy. This is meant to ensure that the abovementioned judicial rights cannot be affected by restrictions on any type of service.

Article 12 prohibits conscious and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation.

4. What do the terms "strictly" and "exclusively" refer to in the exceptions contained in Articles 5n (2), (3) and (4)?
Last update: 24 June 2022

These terms are used to make sure that the exceptions contained in Articles 5n (2), (3) and (4) 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.

5. Does the prohibition on providing services „indirectly" in Article 5n prohibit an EU auditing services provider from providing auditing services to subsidiaries of an entity established in Russia?
Last update: 24 June 2022

No. It is not prohibited to provide services to non-Russian entities, that is entities not established in Russia, even if they are subsidiaries of entities established in Russia.

The use of the term"indirectly" in paragraph 1 of Article 5n means for example that it is prohibited for an EU auditing services provider 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**.

Article 12 prohibits knowing and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation.

6. Does the prohibition on providing services „indirectly" in Article 5n prohibit an EU auditing services provider from providing outsourced auditing services to Russian legal entities?
Last update: 24 June 2022

Yes. EU entities cannot provide services to entities established in Russia, so they cannot use outsourced auditing 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.

7. Does the prohibition on providing services in Article 5n prohibit entities established in the EU which are subsidiaries of Russian companies from providing business-related services to their mother companies established in Russia?
Last update: 24 June 2022

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, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public

relations services to the Government of Russia or persons established in Russia.

8. 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: 24 June 2022

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, accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services 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.

9. PROVISION OF 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.[32]

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).

[32] 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.

10.REGULATION (EC) No 1907/2006 (REACH Regulation)

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 Question 5).

2. **What does Council Regulation (EU) No 269/2014 entail for communication platforms[33] for data sharing and chemical companies?**
   Last update: 1 July 2022

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

[33] 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.

financial profits to a designated communication platform member, including if they are originating from costs sharing.

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: 1 July 2022

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. 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. 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, 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: 1 July 2022

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[34].

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: 1 July 2022

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). In this case, ECHA should grant access to the data (see Question 5).

7. **What should communication platforms do if they have entered a data sharing agreement with a company before it was designated or before the**

[34] 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.

company that owns or controls it was designated under Council Regulation (EU) 269/2014?
Last update: 1 July 2022

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 Question 14). For instance, a communication platform must make sure, also taking the appropriate contractual measures, that no further funds are made available to the designated members (e.g. from further implementation of existing cost-sharing agreement).

See however questions 9 and 11.

8. **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: 1 July 2022

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.

See however questions 9 and 11.

9. **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: 1 July 2022

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, the communication platform should take action to change its lead registrant.

10. 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?
Last update: 1 July 2022

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.

11. As an OR, 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: 1 July 2022

No, as this would be tantamount to making resources available to a designated person or entering a transaction prohibited under Article 5aa.

12. Can I submit information under the fourth paragraph of Article 11 of the REACH Regulation together with a co-registrant that is designated or is owned or controlled by a designated person?
Last update: 1 July 2022

No. See Question 10.

13. Can I submit information under the fourth 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: 1 July 2022

Submitting such information with a co-registrant falling under letters (a)–(c) of Article 5aa of Council Regulation (EU) No 833/2014 will likely entail engaging in a transaction, which is prohibited.

14. 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).

15. 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: 1 July 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.