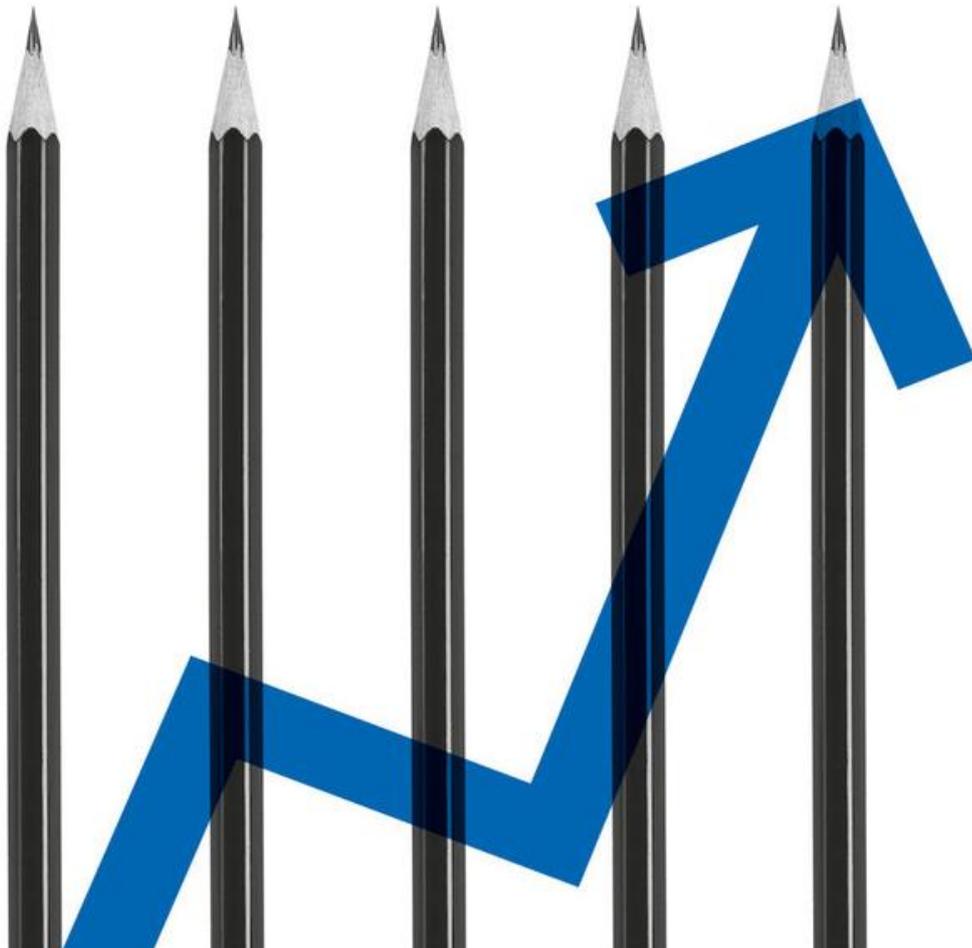


Keeping you up to speed
Russian and Belarus sanctions update

11 October 2022



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Introduction

Following the invasion of Ukraine by Russia, the UK, EU and US have all responded by announcing significant sanctions in respect of Russia and Belarus.

This briefing summarises the key developments since 20 September and supplements our previous briefings on:

- [23 February 2022](#)
- [24 February 2022](#)
- [28 February 2022](#)
- [3 March 2022](#)
- [9 March 2022](#)
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- [1 July 2022](#)
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- [16 August 2022](#)
- [23 September 2022](#)



United Kingdom

Asset Freezes

On 26 and 30 September 2022 and on 4 October 2022, asset freezes were imposed against:

- 91 including Russian officials, Oligarchs, the Governor of the Central Bank of the Russian Federation and board members of Russian state-linked organisations such as Gazprombank, Sberbank and Sovcombank;
- 3 entities, namely Goznak, IMA Consulting and LLC Commercial Bank – International Settlements Bank

(“**Designated Persons**”)

Accordingly, all funds and economic resources belonging to, owned, held or controlled by such Designated Persons are frozen (meaning it is prohibited for UK persons to deal with (among other things), directly or indirectly, such funds or economic resources) and it is prohibited for UK persons to make funds or economic resources available, directly or indirectly, to or for the benefit of the Designated Persons.

Under UK law, these restrictions also apply to entities which are owned more than 50%, or controlled by, a Designated Person.

General Licences

[INT/2022/1280876](#)

On 6 October 2022, OFSI amended General Licence [INT/2022/1280876](#) to include payments related to insolvency proceedings under the German Bank Act.

By way of reminder, this general licence authorises certain transactions and activities relating to:

- VTB Capital plc and any of its UK subsidiaries;



- Sberbank CIB (UK) Ltd and any of its UK subsidiaries;
- VTBC Asset Management International Limited,
- VTB Bank (Europe) SE and any of its German subsidiaries. Any payments must be in relation to Insolvency Proceedings brought under the German Banking Act in order for this licence to be applicable.

This licence took effect from 1 March 2022 and will expire 3 April 2023.

Guidance updates

On 21 September 2022, OFSI issued updated FAQs (specifically, FAQ 24-26) which relate specifically to food security. In summary:

- insurers may apply for a licence to permit any services (including insurance of vessels or goods) to be provided in connection with the production and/or distribution of food. The application can be made under the food security purpose contained within the existing Regulations;
- financial institutions may provide services relating to the export of food and/or fertilisers from Russian and Ukraine to a third country, as long as there is a valid licence in place; and
- OFSI considers that the production and distribution of fertiliser is within the scope of the food security licensing purpose.

Sham “referenda”: The UK’s response in imposing further sanctions on Russia

On 30 September 2022, Putin announced the illegal annexation of the Ukrainian regions of Donetsk, Luhansk, Kherson and Zaporizhzhia following sham “referenda”.

The UK Government has responded by announcing wide ranging new sanctions including services and goods export bans targeting certain sectors of the Russian economy. We await the legislation which will bring these new sanctions into effect. Our briefing on what is included can be found [here](#).



The Economic Crime and Corporate Transparency Bill

On 22 September 2022, the Economic Crime and Corporate Transparency Bill (the “Bill”) passed its first reading in the House of Commons.

By proposed amendment to the Company Directors Disqualification Act 1986 and the Company Directors Disqualification (Northern Ireland) Order 2002, the Bill intends to:

- make it an offence for persons designated under UK or UN sanctions to:
 - directly or indirectly take part in or be concerned in the promotion, formation or management of a company (without the leave of the High Court);
- create a defence which individuals can rely upon if that are able to prove that they did not know and could not reasonably be expected to know that they were designated at the time in which they were involved in the above activities; and
- update the definition of a director (where the above applies) to include “designated persons under sanctions legislation”.

The Bill will also provide additional powers to law enforcement to enable them to seize, freeze and recover suspected criminal crypto assets.

Our full briefing with respect to the Bill can be found [here](#).



European Union

On 6 October 2022 and in response to the illegal annexation of the Ukrainian regions of Donetsk, Luhansk, Kherson and Zaporizhzhia, the EU announced that it had adopted its 8th package of Russian related sanctions.

Key restrictions within the new package are summarised below.

Asset freezes

Council Regulation 2022/1906 implements a number of additional asset freezes with respect to a number of officials within Kherson and Zaporizhzhia, military personal and the following entities:

- **JSC Goznak** – a company responsible for printing Russian passports and production of banknotes, coins, identity cards and other security items;
- **OJSC V.A Degtyarev Plant** – a defence company;
- **MKB "Fakel"** – a defence company;
- **JSC Irkut Corporation** – a Russian aircraft manufacturer;
- **MMZ Avangard** – Russia defence contractor;
- **JSC A.N. Ganichev Scientific and Production Association "SPLAV"** – Russian weapons manufacturer; and
- **Central Election Commission** – Russia state body responsible for organising elections and referenda.

Accordingly, all funds and economic resources belonging to, owned, held or controlled by such Designated Persons are frozen (meaning it is prohibited for EU persons to deal with (among other things), directly or indirectly, such funds or economic resources) and it is prohibited for EU persons to make funds or economic resources available, directly or indirectly, to or for the benefit of the Designated Persons.



Under EU law, these restrictions also apply to entities which are owned more than 50%, or controlled by, a Designated Person.

In addition, Council Regulation (EU) 2022/1905 amends Council Regulation 269/2014 by adding in an additional criteria on the groups of persons on which EU asset freezes can be imposed. The amendment allows the EU to impose asset freezes on any person/entity who "facilitates infringements of the prohibition against circumvention" with respect to either Council Regulation 293/2014, 263/2022, 833/2014 or 692/2014. This widens the scope of individuals/entities in a secondary sanctions manner.

Finally, Council Regulation 2022/190 also provides for a number of new derogation grounds, including (but not limited to):

- derogation whereby Member States may authorise the release of frozen funds/economic resources belonging to (or the making available of funds/economic resources to) PJSC Kamaz where necessary for the completion of transactions which are strictly necessary for the wind-down of a joint venture or similar arrangement concluded before 16 March 2022 involving an entity listed in Annex XIX to Council Regulation 833/2014. Such wind-down activity must complete by 31 December 2022; and
- derogation whereby Member States may authorise the release of frozen funds/economic resources belonging to (or the making available of funds/economic resources to) the NSD where necessary for the termination by 7 January 2023 of operations, contracts or other agreements concluded with, or otherwise involving, the NSD before 3 June 2022.

Non-Government controlled areas of Ukraine

Council Regulation 2022/1903 amends Council Regulation 2022/263 by extending the restrictions with respect to Donetsk and Luhansk to the other occupied regions of Kherson and Zaporizhzhia.

Trade Related restrictions

Council Regulation (EU) 2022/1904 amends Regulation (EU) 833/2014 by introducing further trade restrictions against Russia, as follows.

- Prohibition on the sale, supply, transfer or export, directly or indirectly, of small firearms and components as listed in Annex I to Regulation (EU) 258/2012 to or for use in Russia. There are also prohibitions on the provision of related technical assistance, financing or financial assistance, brokering services or other services related to such goods.



- Prohibition on the sale, supply, transfer or export, directly or indirectly, of additional jet fuel and fuel additives and related equipment as listed in Part B of Annex XI to or for use in Russia.
- Prohibition on the importation or purchase, as from 30 September 2023, directly or indirectly, of iron and steel products as listed in Annex XVII when processed in a third country incorporating iron and steel products originating in Russia. There are also prohibitions on the provision of related technical assistance, financing or financial assistance, brokering services or other services related to such goods. There are also certain exemptions and quotas in relation to the importation or purchase of such goods.
- Prohibition on the purchase, import or transfer, directly or indirectly, of additional goods which generate significant revenues for Russia as listed in Part B of Annex XXI if they originate in Russia or are exported from Russia.
- Prohibition on the purchase, import or transfer, directly or indirectly, of coal and other products listed in Annex XXII, into the EU if they originate in Russia or are exported from Russia.
- Prohibition on the sale, supply, transfer or export, directly or indirectly, of additional goods which could contribute in particular to the enhancement of Russian industrial capacities, as listed in Annex XXIII, to or for use in Russia.
- Implementation of a price cap in relation to Russian oil and petroleum products transported to third countries. This is implemented using the following mechanisms:
 - Under the newly-added Article 3n(4), it is prohibited to transport (including through ship-to-ship transfers) to third countries, crude oil (as of 5 December 2022) or petroleum products (as of 5 February 2023) as listed in Annex XXV, which originate in Russia or which have been exported from Russia.
 - **However**, the new prohibition under Article 3n(4), as well as the existing prohibition under Article 3n(1) (on the provision of technical assistance, brokering services or financing or financial assistance, related to the transport to third countries of Russian crude oil or petroleum products), **do not apply**:
 - as of 5 December 2022, to Russian crude oil falling, and as of 5 February 2023, to Russian petroleum products, **provided that the purchase price per barrel of such products does not exceed the price laid down in Annex XXVIII**;



- to crude oil or petroleum products as listed in Annex XXV where those goods originate in a third country and are only being loaded in, departing from or transiting through Russia, provided that both the origin and the owner of those goods are non-Russian; and
- to the transport, or to technical assistance, brokering services, financing or financial assistance related to such transport, of the products mentioned in Annex XXIX to the third countries mentioned therein, for the duration specified in that Annex.
- In addition, certain other activities have been excluded from Article 3n(1) prohibition on technical assistance, brokering services or financing or financial assistance, related to the transport to third countries of Russian crude oil or petroleum products. Most notably, this prohibition does not apply to the payment of insurance claims after 5 December 2022 (for crude oil) or after 5 February 2023 (for petroleum products) on the basis of insurance contracts concluded before 4 June 2022 and provided that the insurance coverage has ceased by the relevant date.

Finance related restrictions

- Article 5aa, which prohibits transactions with certain state owned entities (“**Annex XIX Entities**”), has been amended as follows:
 - as well as being prohibited from engaging in any transaction with the Annex XIX Entities, EU persons are now also prohibited from 22 October 2022 from holding any post in the governing body of any Annex XIX Entity or any entity established outside of the EU which is owned more than 50% by, or acts on behalf of, an Annex XIX Entity;
 - the Annex XIX Entities have been split into two parts – A and B, with part A consisting of the original annex and part B adding the Russian Maritime Register of Shipping (“**RMRS**”); and
 - derogations and exemptions are amended to allow for additional derogations and exemptions relating to the RMRS.
- Article 5b, which currently provides for a deposit restriction has been amended to allow for a complete ban (irrespective of deposit value) on the provision of 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.

Service related restrictions

- Article 5n has been amended to extend the prohibition on the provision of services to the Government of Russia or any entity established in Russia, to the following:
 - o architectural and engineering services;
 - o legal advisory services; and
 - o IT consultancy services.
- These services restrictions do not apply to the provision of services which are:
 - o strictly necessary for the termination by 8 January 2023 of contracts concluded before 7 October 2022, or of ancillary contracts necessary to the execution of such contracts;
 - o strictly necessary for the exercise of the right of defence in judicial proceedings and the right to an effective remedy;
 - o strictly necessary for ensuring access to judicial, administrative or arbitral proceedings in a Member State, or the recognition or enforcement of a judgment or arbitration rendered in a Member State, provided that the services provided are consistent with the objectives of the EU Regulations;
 - o necessary for public health emergencies, the prevention or mitigation of an event likely to seriously and significantly impact human health and safety or the environment, or as a response to natural disasters; and
 - o necessary for software updates for non-military use and for a non-military end user (subject to conditions).
- In addition, the restrictions on these new services (as well as the pre-existing service restrictions) do not apply to the provision of services for the exclusive use of legal persons/entities established in Russia which are owned by, or controlled (solely or jointly), by a legal person/entity incorporated or constituted under the law of a Member State, an EEA country, Switzerland or a partner country listed



in annex VIII. The addition of partner countries is new and includes: the USA, Japan, UK and South Korea.

- A series of derogation grounds are also provided for, including (but not limited to):
 - o humanitarian purposes;
 - o civil society activities;
 - o diplomatic and consular activities;
 - o ensuring critical energy supply within the EU;
 - o ensuring the continuous operation of infrastructures, hardware and software which are critical for human health and safety, or the safety of the environment;
 - o the establishment, operation, maintenance, fuel supply and retreatment and safety of civil nuclear capabilities; and the provision of electronic communications services necessary for the operation, maintenance and security of electronic communication services in Russia, Ukraine and the EU, as well as between Russia/Ukraine and the EU.

Each derogation ground has further details, criteria and conditions associated with it.



United States

On September 30, 2022, the US Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"):

- Issued Russia-related OFAC [Frequently Asked Question \("FAQ"\) 1091](#), emphasizing that the United States intends to more aggressively use its existing sanctions authority to target persons, both inside and outside of Russia, who provide material assistance, sponsorship, financial, material, or technological support for, or goods or services to, or in support of (together "material support"), sanctioned persons or sanctionable activity, particularly, entities and individuals in jurisdictions outside Russia that provide political or economic support for Russia's illegal attempt to annex Ukrainian sovereign territory. Examples of activities that could be targeted include those related to:
 - o Providing material support for the organization of Russia's sham "referenda" or annexation, as well as economic or other activity that seeks to legitimize Russia's sham "referenda" or annexation;
 - o Providing material support to Russia's military and defence industrial base, including significant transactions by entities in third countries that provide material support to Russia's military, defence industrial base, and designated entities and persons operating in Russia's defence industrial base;
 - o Attempting to circumvent or evade U.S. sanctions on Russia and Belarus; and
 - o Providing material support to Russian entities or individuals subject to certain blocking sanctions.
- Confirmed in FAQ 1091 that certain activities that are not prohibited by US sanctions, including transactions related to the sale of or transport of Russian-origin energy products, aside from the importation of such products into the United States;
- [Updated](#) the Specially Designated Nationals and Blocked Person ("**SDN**") List by designating 14 persons in Russia's military-industrial complex, including two international suppliers, three key leaders of Russia's financial infrastructure, immediate family members of some of senior Russian officials, and 278 members of Russia's legislature for enabling Russia's illegitimate referenda and attempt to annex sovereign Ukrainian territory.
- Also on September 30, the Bureau of Industry and Security ("**BIS**") of the US Department of Commerce issued [FAQ guidance](#) emphasizing that the US Department of Commerce will apply Russia-



related export controls against “any entities, both inside and outside of Russia, that seek to provide material support for Russia and Belarus’s military and industrial sectors, including to replenish (“**backfill**”) technologies and other items prohibited by the United States and the 37 allies and partners that have implemented substantially similar controls.”

- This FAQ builds upon a BIS rule adopted on September 15, 2022, that, among other things, expanded the Export Administration Regulations (“**EAR**”) “military end user” controls to target more effectively military support for Russia and Belarus. Specifically, the expansion allows BIS to add to the Entity List entities in third countries that support “military end uses” (i.e., military end users) in Russia or Belarus (i.e., in Supplement no. 4 to EAR Part 744 with a “footnote 3” designation). Additionally, BIS may now designate entities in third countries that support “military end uses” in Burma, Cambodia, China, or Venezuela on the Military End User (“**MEU**”) List (in Supplement no. 7 to EAR Part 744). Entities added to the Entity List and MEU List are subject to heightened U.S. export control restrictions, including a presumption of denial of many exports.



Switzerland

Update to the List of Specially Designated Nationals (Annex 8)

Since the last update, the Swiss ordinance (the “**Ordinance**”) was further adjusted on 21 and 26 September 2022.

On 21 September 2022, the Swiss Department of Economic Affairs, Education and Research (“**SECO**”) added 19 individuals and 6 entities to list of Specially Designated Nationals (Annex 8) subject to an asset freeze pursuant to the article 15 of the Ordinance.

On 26 September 2022, 11 individuals were removed from the same list, in line with similar changes implemented earlier in the EU (Council Implementing Regulation 2022/1529 of 14 September 2022).

Continued implementation of EU sanctions

In order to align itself with the EU, Switzerland is also expected to implement the new EU sanctions as set out above (eighth package) and revise the Ordinance accordingly.

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Should you require any further information in respect of any or all of the new sanctions, including a review of relevant contractual provisions, please contact:

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