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UK, EU Adopt Further Sanctions Against Russia

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On 18 December 2023, the European Council adopted its **12th package of sanctions against Russia**. The comprehensive new package includes additional trade restrictions, stricter asset freeze obligations, energy restrictions and stronger anti-circumvention measures. The UK also implemented similar changes as of 14 December 2023. Below we set out the key measures.

The new package aims to impose additional import and export bans on Russia and make it more difficult to circumvent sanctions.

European Union sanctions

New professional services restrictions

The EU introduced a new prohibition related to the sale, supply, transfer, export or provision of software for the management of enterprises and software for industrial design and manufacture used in the areas of architecture, engineering, construction, manufacturing, media, education and entertainment. This new prohibition could have a material impact on the operation of Russian subsidiaries of Western companies that provide customer relationship management software. The software items covered by this prohibition are listed in new Annex XXXIX to Regulation (EU) 833/2014 and include:

- Enterprise resource planning (ERP), customer relationship management (CRM), business intelligence (BI), supply chain management (SCM), enterprise data warehouse (EDW), computerized maintenance management system (CMMS), project management software, product life cycle management (PLM) and typical components of the above-mentioned suites – including software for accounting, fleet management, logistics and human resources.
- Building information modelling (BIM), computer-aided design (CAD), computer-aided manufacturing (CAM), engineer to order (ETO) and typical components of the above-mentioned suites.

Additionally, the EU will eliminate – following a six-month wind-down period expiring on 20 June 2024 – the exemption for the provision of all business services (prohibited under Regulation 5n of EU Regulation 833/2014, like accounting, consulting, IT and legal services) to Russian subsidiaries of companies headquartered in EU Member States, US, Japan, UK, South Korea, Australia, Canada, New Zealand, Norway and Switzerland.

Expansion of export restrictions

The package adds 29 entities to the list of those entities which are military end-users, form part of Russia's military-industrial complex, or which have commercial or other links with or otherwise support Russia's defence and security sector. EU companies will not be able to obtain licences to deliver restricted or dual-use goods and technology to these entities. A total of 611 entities are now covered by the restrictions, and the additions include entities in Singapore and Uzbekistan.

The package also adds items to the list of goods forming part of Russia's military-industrial complex or that have links to Russia's defence and security sector, which are prohibited from being sold, supplied, transferred or exported to persons or entities in Russia or for use in Russia, including:

- Chemicals, metals and alloys.
- Lithium batteries.
- Thermostats.
- Direct current (DC) motors and servomotors for unmanned aerial vehicles.
- Machine tools and machinery parts.

The package adds further goods – whether or not they originate in the EU – to the EU export ban, which are prohibited from being supplied, transferred or exported to persons or entities in Russia or for use in Russia. These include:

- Machinery and machinery parts.
- Construction-related goods.
- Processed steel.
- Copper and aluminium goods.
- Lasers.
- Batteries.

New import restrictions

From 1 January 2024, the EU has banned the import of diamonds and products incorporating diamonds originating from Russia or having transited via the Russian territory. There also is an import ban on raw materials for steel production, processed aluminium products and other metal goods. A new import ban on liquefied propane also has been introduced with a 12-month transitional period.

Asset freeze obligations

The EU has sanctioned a further 61 individuals and 86 entities, bringing the totals to 1,645 and 335, respectively. In addition, the European Council has agreed on a new listing criterion which includes individuals who benefit from the compulsory transfer of ownership or control of entities established in Russia, previously owned or controlled by entities established in the EU, where such transfer is made by the Russian government through laws or other actions of a Russian public authority. These individuals and entities may now be designated by the EU and made the subject of asset freeze measures.

To improve detection of sanctions circumvention and breaches, the European Council has introduced an obligation on Member States to establish authorities to identify and trace the funds and economic resources owned or controlled by listed persons and entities in their jurisdiction by 31 October 2024.

Oil price cap

The EU has introduced a requirement that businesses share price information for ancillary costs – such as insurance and freight – upon request throughout the supply chain of the Russian oil trade. The new measures also include an obligation upon sale to any third country to notify the competent authorities of the Member State where the owner of the tanker is a citizen, resident or is otherwise established.

Anti-circumvention measures

The transit ban that previously applied to dual-use items exported from the EU to third countries via the territory of Russia has been extended to additional industrial items. Exporters also are now contractually required to prohibit re-exportation of sensitive items used in Russian military systems or critical to the development, production or use of those systems, as well as aviation items and weapons to Russia or for use in Russia.

EU legal persons or entities that are owned more than 40% by a legal person or entity established in Russia, a Russian national or a natural person living in Russia are – from 1 May 2024 – required to report any transfer of funds out of the EU that exceeds 100,000 euros.

UK sanctions

The UK has adopted similar measures to the EU via two new sanctions regulations – the **Russia (Sanctions) (EU Exit) (Amendment) (No. 4) Regulations 2023** and the **Russia (Sanctions) (EU Exit) (Amendment) (No. 5) Regulations 2023**. The UK measures include:

Export restrictions

The UK has included a ban on the export, supply, delivery and making available of certain additional critical industry goods and technology, defence and security goods, and dependency and other goods to Russia. These include chemicals, machinery, electrical goods and vehicles.

Import restrictions

The UK has banned the import of certain metals – such as copper, nickel, aluminium, zinc and lead – consigned from, originating in or located in Russia, as well as on the supply or delivery of such metals from a place in Russia to a third country.

A new category of controlled iron and steel products also has been introduced.

Similar to the EU, the regulations introduce a ban on the import and acquisition of diamonds and diamond jewellery consigned from, originating in or located in Russia.

The provision of technical assistance, financial services and funds, and brokering relating to luxury goods also is prohibited.

Correspondent banking

The regulations amend the prohibitions on UK credit and financial institutions processing sterling payments indirectly from designated financial institutions. The new measures expand the prohibition to payments in any currency and implement a new exception to enable UK credit and financial institutions to credit accounts for the purposes of compliance with the regulation.

Divestment licences

The regulations introduce a new licensing ground for dealings with designated parties to support divestment from Russia, such as UK entities divesting of funds or economic resources in Russia subject to UK sanctions, as well as UK entities outside of Russia wishing to carry out divestment of investors who are the Russian government or designated persons.

Reporting obligations

The UK has introduced an obligation on designated persons to report the assets they hold, and for firms holding assets that they know or suspect are subject to the restrictions on providing financial services to the Russian Central Bank, National Wealth Fund and Russian Ministry of Finance to report these assets to the Office of Financial Sanctions Implementation (OFSI). New designations The UK government has designated 26 banks which are now subject to the prohibition on correspondent banking relationships (these entities had previously only been designated for asset freeze and trust services restrictions). It also has newly designated Novikombank as a sanctioned entity, which is subject to an asset freeze, correspondent banking prohibitions and trust services sanctions.

Comments

These new UK and EU sanctions significantly broaden the scope of goods and services that are now subject to restrictions. Businesses should therefore ensure sanctions compliance processes adequately encompass these changes. Businesses also should ensure that their compliance efforts do not focus solely on Russia and Russian links, as entities and individuals in other jurisdictions are increasingly being included within the scope of sanctions.

If you have any questions, please contact the Cooley authors listed below, who can advise you on the applicable sanctions and how they affect you and your business.

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