EUROPEAN UNION ADOPTS NEW SANCTIONS AGAINST RUSSIA AND BELARUS

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EU Policy and Regulatory Alert

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The European Union has again amended its sanctions against Russia and Belarus by adopting further legal acts, which put additional compliance obligations on EU companies. In particular, businesses will now have to undertake their “best efforts” to ensure that their non-EU subsidiaries do not participate in activities undermining EU sanctions—expanding the obligations beyond the current practice of focusing on cases, in which the EU parent company was actively involved in the decision-making of such subsidiary (by giving clearances, etc.). In addition, EU operators dealing with particularly “sensitive goods” will be obliged to contractually prohibit those products' reexportation to Belarus and for use in Belarus.

As the EU sanctions regimes are constantly developing, it is advisable for companies with EU operations to remain up to date with their obligations to ensure compliance with applicable requirements. Our trade and sanctions team is more than happy to assist with such compliance efforts.

The 14th sanctions package against Russia adopted on 24 June 2024 continues to target key Russian economic sectors, such as energy, finance, and trade, and reinforce existing sanctions (notably by imposing additional anti-circumvention obligations).

Key measures include:

INDIVIDUAL LISTINGS

Imposition of asset freezes and travel bans on 116 additional individuals and entities, including military companies, companies active in space engineering, companies in the chemical or explosives sector, and leading Russian energy companies. A new derogation has been introduced permitting national authorities to release frozen funds if the intermediary bank is designated or because the initiator is designated for transfer between two nonsanctioned entities.

ENERGY

A new prohibition of reloading Russian liquified natural gas (LNG) in the EU territory for third-country transshipment and restrictions on investments and services for LNG projects under construction in Russia. Prohibition on the import of Russian LNG into specific terminals that are not connected to the EU gas pipeline network.

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POLITICAL FUNDING

Prohibition on EU political parties, nongovernmental organizations, and media service providers receiving funding from the Russian state to prevent interference in democratic processes.

TRANSPORT

Port access and service bans for vessels that have been designated as aiding Russia's war efforts, expanded flight bans, and broader road transport restrictions.

INTELLECTUAL PROPERTY

Restrictions on the acceptance, by EU and member states' intellectual property offices and authorities, of intellectual property registration applications made by Russian persons.

IMPORT-EXPORT CONTROLS

Expanded restrictions on dual-use and advanced technology items and certain industrial products, including bans on manganese ore exports (among other products of the chemical industry) and stricter controls on 61 entities linked to Russia's military complex. Clarifications on the import ban of Russian diamonds, allowing temporary imports/exports for specific purposes, and postponing the application of the ban on jewelry incorporating Russian diamonds processed in third countries. Introduction of an import ban on helium, import and export ban regarding unlawfully removed Ukrainian cultural heritage goods, and the extension of the Common High Priority (CHP) goods list for which specific export restrictions apply.

FINANCE

Ban on using the System for Transfer of Financial Messages (SPFS) (Russia's equivalent of the Society for Worldwide Interbank Financial Telecommunication (SWIFT) system), restrictions on transactions with third-country banks using SPFS, and a prohibition of transactions with banks and crypto asset providers supporting Russia's defense sector.

PROTECTION OF EU OPERATORS

A new provision allows EU operators to claim compensation for damages (including legal fees) incurred as a consequence of claims lodged by sanctioned persons/entities in a third country in relation to an EU person or company having complied with sanctions. Additionally, the new measures provide for an option to impose a ban on transactions with entities that lodged an application for an anti-suit injunction under the Russian Arbitration Procedural Code (or similar).

ANTI-CIRCUMVENTION MEASURES

To prevent circumvention, the 14th package:

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- Amends the wording of the anti-circumvention clause in line with caselaw of the Court of Justice of the European Union, to further clarify that circumvention also encompasses situations where the operator, without deliberately seeking to circumvent the sanctions, is aware that his or her activities may have that object or effect, and he or she accepts that possibility.
- Requires EU companies to undertake their best efforts to ensure that their subsidiaries in third countries do not take part in any activities undermining EU sanctions. Best efforts are defined broadly as comprising all actions that are suitable and necessary to achieve the result of preventing the undermining of the restrictive measures. This may include the implementation of appropriate policies, controls, and procedures to mitigate and manage the risks.
- Requires EU entities to undertake due diligence efforts to prevent CHP goods from reaching Russia and to ensure that their foreign subsidiaries trading in CHP goods do the same. EU operators will also be obliged to ensure that industrial know-how transferred outside the European Union is not used to manufacture CHP goods intended for Russia.

PROLONGMENT OF EXEMPTIONS AND NEW CONCEPT OF SELF-DISCLOSURE

Extension of in-house legal exemption, allowing companies to provide Russian subsidiaries of EU businesses with otherwise prohibited services, has been prolonged until 30 September 2024. Voluntary self-disclosure of sanctions infringements may be taken into account as a mitigating factor by the relevant national authorities.

Following up on this, on 29 June 2024, the European Union imposed new sanctions against Belarus. The sanctions largely align with those imposed on Russia and aim to ensure their effectiveness. The new measures affect various sectors, including trade in goods and services, as well as transport, and are designed to be proportional to Belarus' involvement in Russia's war against Ukraine.

Key measures include:

TRADE

Expanded export restrictions on dual-use and advanced technology goods, and new restrictions on goods aiding Belarusian industry, maritime navigation, oil refining, and luxury items. Prohibited imports include goods that could diversify Belarus' revenue sources, as well as gold and diamonds.

ANTI-CIRCUMVENTION

EU operators must undertake their best efforts to ensure that their subsidiaries are not undermining sanctions. Moreover, the transit of certain sensitive goods through Belarus is banned, and EU exporters are obliged to introduce “no-Belarus clauses” in their contracts. Enhanced vigilance is expected from EU operators trading in battlefield goods.

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SERVICES

The provision of services such as accounting, auditing, engineering, and advertising to Belarus, its government, and related entities is prohibited.

ROAD TRANSPORT

Extended restrictions on trailers registered in Belarus and tighter prohibitions on the transport of goods by road in the European Union by companies significantly (i.e., 25% or more) owned by Belarusians.

PROTECTION OF EU OPERATORS

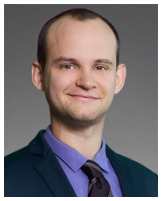
EU operators can claim compensation for damages caused by Belarusian entities due to EU operators' compliance with sanctions.

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