

Further EU and UK Sanctions Targeting Russia

December 19, 2022

International Trade Controls

On December 16, 2022, the Council of the European Union (the “Council”) imposed a new round of economic and individual sanctions in response to Russia’s war against Ukraine. This is the ninth package of sanctions adopted by the EU since Russia’s invasion started in February 2022. The new measures include, among other measures, further export restrictions, investment restrictions targeting the mining and quarrying sector, further sanctions on Russian state owned entities, advertising and other business service restrictions, and additional asset-freezing designations.

The EU measures followed the introduction by the UK government of further sanctions restrictions on Russia on 15 December. The new UK restrictions include, among other measures, new prohibitions on the provision by UK parties of advertising, architectural, auditing, engineering and IT consultancy and design services to persons connected with Russia (similar to pre-existing EU professional services sanctions), and a new prohibition on the provision of trust services to persons specifically designated under the UK’s Russia sanctions. Changes also have been made to certain of the existing UK sanctions measures targeting Russia, including, among others: the addition of new restricted “critical industry” and defence and security goods and technology, and amendments to existing restrictions to prevent dealings in securities or money-market instruments, or loans or credit, that might facilitate otherwise prohibited investments in Russia.

EU Sanctions

Additional Asset-Freezing Designations

[Council Implementing Regulation \(EU\) 2022/2476](#) adds 141 individuals and 49 entities to the EU asset-freezing list. The designations include, among other parties, Russian banks such as the Credit Bank of Moscow and JSC Dalnevostochniy, defence and industrial companies, various political parties and several Russian media companies, including All-Russia State Television and Radio Broadcasting Company (VGTRK), National Media Group and ANO TV-Novosti.

[Council Regulation \(EU\) 2022/2475](#) introduces several new licensing provisions to the principal EU-Russia asset-freezing sanctions regulation – Council Regulation No. 269/2014 – including for the termination of operations, contracts, or other agreements, previously concluded with certain listed entities. In addition, the regulation allows member state authorities, under specific

circumstances, to grant a license to unfreeze assets of, and to make funds and economic resources available to, certain individuals who held a significant role in international trade in agricultural and food products, including wheat and fertilisers, prior to their listing.

Additional Sectoral Sanctions

[Council Regulation \(EU\) 2022/2474](#) introduces a number of new amendments to Council Regulation (EU) No 833/2014 (“Regulation 833”), which is the principal EU measure imposing sectoral export/import controls and services sanctions in relation to Russia, as well as changes to various exemptions and licensing provisions in Regulation 833. The following are the key measures introduced through the December 16 regulation:

- **Additional export controls:** The regulation expands the list of items captured by Annex VII (critical industry goods), Annex XI (goods and technology suited for use in aviation) and Annex XXIII (industrial equipment and raw materials). Annex VII now includes, among other newly-designated items, drone engines, certain chemical substances and equipment for processing. Annex XI has been expanded to now also include certain types of aircraft engines and their parts. The additions to Annex XXIII include certain types of generators, laptops, and cameras.
- **Derogation to wind down Russian operations:** The regulation introduces a derogation from the export restrictions in Regulation 833 allowing member state authorities to grant a license for the sale, supply or transfer of the controlled goods and technologies until September 30, 2023, where such sale, supply or transfer is strictly necessary for the divestment from Russia or the wind-down of business activities in Russia provided those goods and technologies were already physically located in Russia at the time when the relevant prohibitions entered into force.

The regulation introduces a similar derogation for the Article 3g (“iron and steel products”) and Article 3i (“industrial goods”) import restrictions, allowing member states to grant a license for the import of items listed in Annexes XVII and XXI until September 30, 2023, to facilitate divestment from the Russian market by EU operators.

- **Mining and quarrying sector:** The regulation expands the prohibition targeting new investments in the Russian energy sector by additionally prohibiting new investments in the Russian mining and quarrying sector, with the exception of mining and quarrying activities involving certain critical raw materials listed in Annex XXX. The regulation defines the mining and quarrying sector as “*a sector covering the location, extraction, management and processing activities relating to non-energy producing materials.*”
- **Sanctions on Russian state-owned entities:** The regulation introduces a new prohibition for EU persons to hold any posts in the governing bodies of publicly owned or controlled Russian companies, Russian companies majority owned by publicly owned or controlled Russian companies or companies acting on behalf of one of the foregoing entities. This new prohibition supplements a pre-existing prohibition for EU persons to hold any posts in the governing bodies of entities listed in Annex XIX that are also subject to the Article 5aa transaction ban.

The regulation furthermore adds the Russian Regional Development Bank to the list of state-owned entities that are subject to the Article 5aa transaction ban.

- **Advertising and other business service restrictions:** The regulation widens the scope of prohibitions, set out in Article 5n of Regulation 833, associated with the provision of professional services to the government of Russia or legal persons established in Russia to

include market research and public opinion polling services, technical testing and analysis services and advertising services. (Previously, Article 5n focused on accounting, auditing, book-keeping, tax consultancy, business and management consulting, public relations services, architectural and engineering services, legal advisory services and IT consultancy services). These restrictions are subject to a number of exemptions, including for the provision of services intended for the exclusive use of Russian entities owned by, or solely or jointly controlled by, an entity which is incorporated or constituted under the law of an EU Member State, a country member of the European Economic Area, Switzerland or a partner country as listed in Annex VIII to Regulation 833. The regulation furthermore introduces new exemptions, including exemptions allowing the provision of the restricted services for the termination of contracts that were concluded before a certain cut-off date (the scope of which depends on the type of service).

Prefatory language to the new regulation indicates that the foregoing new services restrictions should be understood in the following manner:

*“**Market research and public opinion polling services**’ covers market research services and public opinion polling services.*

*‘**Technical testing and analysis services**’ covers composition and purity testing and analysis services, testing and analysis services of physical properties, testing and analysis services of integrated mechanical and electrical systems, technical inspection services, as well as other technical testing and analysis services.*

*‘**Advertising services**’ covers the sale or leasing services of advertising space or time and the planning, creating and placement services of advertising, as well as other advertising services.*

- **Russian media-related sanctions:** The list of Russian entities that are subject to EU broadcasting restrictions has been extended and now also includes NTV/NTV Mir, Rossiya 1, REN TV and Pervyi Kanal. Those restrictions prohibit EU persons from broadcasting content by the designated Russian parties and from advertising products or services in any content produced or broadcasted by the listed entities.
- **Public listing restrictions:** Pre-existing restrictions to list and provide services in relation to shares of Russian state-owned entities on EU trading venue will be expanded. As of January 29, 2023, it will be prohibited to admit Russian state-owned entities on EU trading venues.
- **Oil import restrictions:** The regulation excludes natural gas condensates produced in liquefied natural gas (LNG) production plants from the restrictions set out in Articles 3m and 3n of Regulation 833, in order to ensure the security of the liquefied natural gas supply in the EU. The regulation furthermore introduces a reporting obligation for operators engaged in transactions concerning natural gas condensate from LNG production plants originating in or exported from Russia. The new measures also include licensing provisions enabling transactions intended to facilitate certain exports of oil products to Ukraine.

The regulation also makes other targeted amendments, including to adjust the scope of certain pre-existing exemptions, licensing provisions, and reporting requirements.

UK Sanctions

New Sanctions Restrictions

On December 15, 2022, the UK government introduced the [Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 17\) Regulations 2022](#) (the “Regulations”), which further amend the UK [Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#) (the “UK-Russia Regulations”) to introduce the following further financial sanctions and trade restrictions.

- **Professional services restrictions**

As originally announced in September (see our [previous alert](#)), the pre-existing restrictions on the provision by UK persons of accounting, business and management consulting and public relations services to persons connected to Russia (i.e., persons resident, located, domiciled or incorporated in Russia) have been extended to also prohibit the provision of: advertising services; architectural services; auditing services; engineering services; and, IT consultancy and design services.

The scope of the services deemed to fall within each of the professional services restrictions are set out at Schedule 3J to the UK-Russia Regulations and are, in the case of the newly restricted services, mostly defined with reference to relevant UN Central Product Classifications.

The new restrictions do not apply to acts done in satisfaction of an obligation arising under a contract concluded before December 16, 2022, provided the act is carried out before March 15, 2023 (and notification is provided prior to this date). There are further specific exceptions set out in the Regulations with respect to certain of the restrictions, which are noted below.

- **Advertising services** are services falling within code 836 of the [2002 UN Central Product Classification](#) and include: planning, creating and placement services, purchase or sale of advertising space or time, sale of advertising space/time in print media, TV/radio, or the internet, among other advertising services.
- **Architectural services** are specified services falling under codes 8671 (for architectural services) and 8674 (for urban planning and landscape architectural services) of the [1991 UN Central Product Classification](#) and include: advisory and pre-design architectural services, architectural design services, advisory and technical assistance services during the construction phase, services relating to land use, site selection and road systems, planning and designing landscaping of parks, commercial and residential land.
- **Auditing services** are defined specifically as “*services consisting of examination of the accounting records and other supporting evidence of an organisation for the purpose of expressing an opinion as to— (a) whether financial statements of the organisation present fairly its position as at a given date, and (b) the results of its operations for the period ending on that date, in accordance with generally accepted accounting principles.*”

There are exceptions to the restriction on auditing services for:

- i. services provided to credit institutions parent companies with respect to certain services relating to the creation of consolidated company accounts that include Russian subsidiaries;
- ii. services provided to parent companies in scenarios other than (i), where the auditor was appointed before December 16, 2022, the work is completed

before May 31, 2023 and notification of the provision of such services is provided by March 15, 2023; and

- iii. services provided to a subsidiary undertaking for purposes of the discharge of or compliance with UK statutory or regulatory obligations where the provision of such services results in them being provided indirectly to a parent company connected to Russia.
- **Engineering services** are specified services falling under codes 8672 (for engineering services), 8673 (for integrated engineering services), 8675 (for engineering related scientific and technical consulting services) and 8676 (for technical testing and analysis services) of the [1991 UN Central Product Classification](#) and include: advisory and consultative engineering services, design services for the construction of foundations and building structures, design services for mechanical and electrical installations for buildings, and design services for industrial processes and production, among others.
 - **IT consultancy and design services** are services falling under codes 83131 (for IT consulting services) and 83141 (for IT design and development services for applications) of the [2015 UN Central Product Classification](#), which define the scope of the services subject to restrictions as follows:
 - **IT consultancy services** includes: “*providing advice or expert opinion on technical matters related to the use of information technology, such as:*
 - *advice on matters such as hardware and software requirements and procurement*
 - *systems integration*
 - *systems security*
 - *provision of expert testimony on IT related issues*

This subclass does not include:

 - *providing advice, guidance and operational assistance concerning the use of information technology by businesses, such as the development of an e-commerce strategy, cf. 83111*
 - *service contracts where advice is bundled with the design and development of an IT solution (website, database, specific application, network, etc.), cf. the appropriate information technology (IT) design and development service under 8314”*
 - **IT design and development services for applications** includes: “*services of designing the structure and/or writing the computer code necessary to create and/or implement a software application, such as:*
 - *designing the structure and content of a web page and/or writing the computer code necessary to create and implement a web page*
 - *designing the structure and content of a database and/or writing the computer code necessary to create and implement a database*
 - *designing the structure and writing the computer code necessary to design and develop a custom software application*

- *customization and integration, adapting (modifying, configuring, etc.) and installing an existing application so that it is functional within the clients' information system environment*

This subclass does not include:

- *service contracts where the design and development of a web page is bundled with the hosting of the web page, cf. 83151*
- *service contracts where the design and development of the application is bundled with the hosting and management of the application on an ongoing basis, cf. 83152*
- *service contracts where the design and development of a database is bundled with the ongoing management of the data holdings, cf. 83159”*

The restrictions on the provision of IT consultancy and design services are subject to exceptions for the provision of:

- i. services relating to the provision of an “electronic communications network” or an “electronic communications service” used for civilian purposes; or
- ii. services incidental to the exchange of communications over the internet, including: instant messaging, videoconferencing, chat and email, social networking, sharing of photos, audio, videos, films or documents, web browsing, blogging, web hosting, and domain name registration services.

As with the pre-existing restrictions on the provision of professional services under UK sanctions, and unlike the equivalent restrictions imposed under U.S. and EU sanctions, the UK restrictions do not include a general exception for the provision of services to Russian subsidiaries of UK parent companies, and licensing is required to be obtained for the provision of restricted services in such circumstances (unless other exemptions cover the services in question).

Notably, the Regulations do not include restrictions on the provision of “transactional legal services”, which had been included in the UK government announcement of expanded professional services restrictions in September. It remains to be seen whether this restriction will follow as a further amendment to professional services restrictions under UK sanctions in due course. The equivalent EU restrictions on professional services include a similar restriction on the provision of “legal advisory services” to the Russian government or Russian entities, which was introduced in October.

■ Trade restrictions

The Regulations also amend existing restrictions on the export, supply, delivery and making available of so-called “critical industry” goods and technology (and related services) by adding specific further items to the list of restricted items set out at Schedule 2A to the UK-Russia Regulations. Newly restricted items include specified: oil production and exploration equipment, equipment for the production of OLEDs and e-fuels and synthetic fuels, and camouflage materials, among others.

The list of defence and security goods and technology set out at Schedule 3C to the UK-Russia Regulations, to which similar restrictions on export, supply, delivery or making available apply, is also expanded by the Regulations to include the following five chemicals: calcium carbide, carbon monoxide, monoethyleneglycol, sulphur and sulphur dioxide.

■ **Financial sanctions**

● **Trust services restrictions**

The Regulations introduce a new restriction on the provision of “trust services” to persons designated under the UK-Russia Regulations (and included on the [UK Sanctions List](#)), or to persons connected with Russia more broadly – the latter restriction does *not* apply, however, to ongoing arrangements initiated prior to 16 December 2022.

Trust services will be deemed to have been provided to a designated person where: the designated person is a beneficiary of a trust or similar arrangement; referred to as a potential beneficiary of a trust or similar arrangement in a document from the settlor; or, might be expected to obtain, or be able to obtain, a “significant financial benefit” from a trust or similar arrangement.

There are exceptions to the foregoing restriction for services provided:

- in satisfaction of an obligation for the provision of trust services to a designated person or person connected with Russia relating to the discharge of or compliance with UK statutory or regulatory obligations;
- for purposes of complying with asset freezing restrictions under the UK-Russia Regulations; and
- in connection with transferable securities or money market instruments, where services are not restricted by other restrictions under the UK-Russia Regulations.

There are also exceptions for services provided where services are not provided primarily to, or for the benefit of, a designated person or person connected with Russia:

- in certain cases, for services relating to trusts for the benefit of persons under 18 years of age or who lack capacity;
 - to a community amateur sports club registered with UK HMRC;
 - to a trust for charitable services registered as a charity (if required);
 - to a pension scheme registered in the UK;
 - for purposes of segregating funds or economic resources belonging to segregating entity’s clients;
 - in the course of, or in connection with, carrying on by way of business certain activities regulated under the UK Financial Services and Markets Act 2000 (including safeguarding and administering investments); or
 - in the course of, or in connection with, acting by way of business as an agent holding funds, economic resources or documents in escrow.
- **Bank of England third-country resolution actions**

The Regulations also suspend (by disapplication) the Bank of England’s obligation under the UK Banking Act 2009 to make a decision on third-country resolution actions – which could, for example, require a decision with respect to the write down of liabilities governed by UK law or the transfer of property in the UK – in relation to designated persons and entities owned or controlled by designated persons.

- **Restrictions on dealing with securities and money market instruments and the provision of loans and credit arrangements**

The Regulations amend existing restrictions on dealing with securities and money market instruments (set out in regulation 16 of the UK-Russia Regulations) to extend the prohibition to prohibit dealing in transferable securities and money market instruments where the person dealing knows or has reasonable cause to suspect that the financial product in question has been issued on or after December 16, 2022, by a entity not connected with Russia, for purposes of facilitating an investment in Russia that is prohibited under regulation 18B of the UK-Russia Regulations.

The existing restriction on the provision of loans and credit arrangements to Russian entities (set out in regulation 17 of the UK-Russia Regulations) is extended similarly to prohibit the provision of loans or credit after December 16, 2022, for purposes of a prohibited investment in Russia (under regulation 18B UK-Russia Regulations).

A new [General Licence](#) was introduced alongside the Regulations to allow for a 7-day wind down period with respect to the foregoing new restrictions on dealing with securities and money market instruments and providing loans and credit. This General Licence permits parties to engage in transactions that would otherwise be restricted under the new restrictions, and to directly or indirectly acquire an ownership interest in or control over an entity not connected with Russia for purposes of making funds available to, or for the benefit of, a person connected with Russia, until its expiry at 23:59 on December 22, 2022.

New Guidance

HM Treasury's Office of Financial Sanctions Implementation (OFSI) has published [updated guidance](#) on the financial and investment sanctions imposed under the UK-Russia Regulations following the introduction of the amendments in the Regulations set out above, which have been updated to include a summary of the new restrictions on the provision of trust services to designated persons.

On December 13, 2022, the Department of International Trade's Export Control Joint Unit (ECJU) published new guidance in the form of an online voluntary [Compliance code of practice for export licensing](#), which provides advice concerning best practice on export control compliance procedures with respect to the processes for using ECJU licences required with respect to UK export controls restrictions, including those imposed under the UK-Russia Regulations.

New Sanctions Designations

On December 13, 2022, the UK government designated for asset freezing sanctions under the UK-Russia Regulations twelve individuals associated with the Russian military and one Iranian entity and three Iranian individuals related to the suspected supply of military equipment from Iran to the Russian military. In an accompanying [press release](#), the UK government stated that Oje Parvaz Mado Nafar Company (MADO) and its co-owner and director had been designated on the basis that MADO is "the company responsible for manufacturing engines for the drones which have been used by Russia in Ukraine".

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We are closely monitoring developments concerning the U.S., UK, and EU sanctions against Russia, and will issue further updates in the event of material developments. In the meantime, we would be happy to address any questions you may have.

Covington's International Trade Controls team—which includes lawyers in the firm's offices in the United States, London, Brussels, and Frankfurt—regularly advises clients across business sectors, and would be well-placed to provide support in connection with the emerging Russia sanctions and export controls.

Our trade controls lawyers also work closely with Covington's Global Public Policy team which consists of over 120 former diplomats and policymakers in the United States, Europe, the Middle East, Latin America, Africa, and Asia. Many of the members of the Public Policy team have had substantial government experience in sanctions and export controls matters, and regularly advise our clients on emerging sanctions policy matters and related engagements with government stakeholders.

Covington is therefore exceptionally well-positioned to assist clients in navigating their most complex challenges, drawing on our trade and public policy teams as well as our additional multidisciplinary teams in areas including international arbitration and disputes, cybersecurity, anti-money laundering, corporate restructuring, finance, and insurance.

As the Ukraine crisis evolves, we will continue to monitor developments, including those regarding U.S., UK, and EU sanctions against Russia, and will issue further updates in the event of material developments.

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