

**BAHR**

# **Compliance & Risk Management**

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**Sanctions Briefing: Update on sanctions against Russia and Belarus**

**Including a high-level overview of newly imposed sanctions related to the Russian attack on Ukraine**

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# Sanctions Briefing: Update on sanctions against Russia and Belarus

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The EU, the United States, United Kingdom, Germany, Canada, Japan, Australia and Norway are only few of the authorities that have imposed or announced sanctions against Russia and Belarus in reaction to the Russian attack on Ukraine during the recent days, in many cases turning assets in these countries into de facto liabilities. This newsletter provides you with a brief introduction to sanctions and a high-level overview of the drastic trade sanctions and export control measures imposed by the EU, UK and US. The measures are however highly dynamic and the situation changes rapidly. It is thus key for businesses to have a systematic approach allowing them to quickly identify legal, compliance, operational and reputational risks related to their day-to-day business. Our suggestions on how to address the new sanctions landscape are set out below.

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## General information about sanctions in Norway, the EU, US and UK

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Sanctions are economic measures restricting trade and involvement with specific countries, individuals, entities, or industry sectors. Sanctions are used by governments to express political standpoints or attempt to influence decisions.

Economic restrictions can generally be divided into the following main categories:

- **Travel restrictions** restrict entry into or transit through the country for natural persons listed.
- **Asset freezes** block a person's properties and funds by prohibiting and preventing to move, transfer, use, access, withdraw, or deal in the assets in any way. An asset freeze also involves restrictions on dealing with persons on the asset freeze lists.<sup>1 2</sup>
- **Sectorial sanctions** prohibit purchasing or selling specific goods or technologies, providing specific services, or conducting business related to specific sectors.
- **Financial measures** may include restrictions on investments in certain markets or financial instruments, real estate, entities and financing of entities in certain countries or areas, or prohibition of dealing in debt and provision of financing, loans, equity or financial services to listed individuals and entities.
- **Import bans** restrict import of goods or technologies originating in the listed country or region and often also the financing or insurance related to such imports.
- **Export control** restricts the export of specific goods or technologies, often within specific sectors, to certain countries or areas.

The newly imposed sanctions in light of the war in Ukraine are extensive and authorities around the world make use of a wide array of measures. Governments have, in some instances, explicitly declared economic "war" on Russia and it seems likely that these measures will be escalated until peace in Ukraine has been restored. It is important that this unique context is an integral part of the assessment and management of sanctions risks.

<sup>1</sup> [Federal Register: Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation](#)

<sup>2</sup> [EUR-Lex - 32014R0269 - EN - EUR-Lex \(europa.eu\)](#)

A breach of applicable sanctions laws and regulations may typically result in criminal and/or civil liability for both companies and the individuals involved. The current situation does however not only pose legal, compliance and reputational risks, but also challenges to the operations of internationally connected businesses whether small or big. All businesses need to make sure that they have a systematic approach to identifying and handling the new risk landscape. BAHR regularly advises its clients on risk management and compliance matters and we have included a number of specific action points suitable for most operations below. A high-level overview of the recently imposed measures by the EU, UK and US can be found below.

## How to address the new sanctions risk landscape

The sanctions risk landscape has changed drastically and businesses will need to be able to manage the increased legal, compliance, operational and reputational risks in the time to come to ensure their "licence to operate" outside of Russia and Belarus is not compromised. In addition to ensuring that immediate steps are taken to address the time-sensitive, immediate issues below, companies will also need to ensure that their organisation allows the systematic identification, assessment and mitigation of the increased and dynamic day-to-day risks related to inter alia sanctions regimes.

### Immediate measures

- Assess the need for and options to minimise losses related to business operations connected to Russia, Belarus and relevant regions in the Ukraine that require immediate action.
- Ensure that no payments, orders or deliveries are made to/from regions/countries, with parties or within sectors potentially subject to sanctions or restrictions as applicable of today or expected going forward.
- Ensure that no new contracts are concluded that could have a connection to regions/countries, sectors, or parties potentially subject to sanctions or restrictions as applicable of today or expected going forward.
- Assess whether Russian banks are involved in the business of the company. Consider the options to address potential risks in relation to sanctions and additional measures that may be implemented going forward.
- Clear allocation of responsibility for continuously tracking developments and sanctions laws and regulations to personnel with relevant seniority and expertise.
- Establish a point of contact for employees that have questions or identified risks related to the war in Ukraine. Communicate clearly and ask your employees to get in touch if any questions arise.
- Act early to disengage from business in and with Russia and Belarus at risk of likely escalated sanctions and related measures in the future – engage with applicable governmental authorities to have protocol for disengagement approved if there is uncertainty as to how disengagement shall be effected.

### Systematic mapping of sanctions risk and implementing adequate measures

- Map sanctions risks: Identify business operations in Russia, Belarus and the relevant regions in Ukraine, or with parties such as customers, suppliers, distributors, or other business partners, with a connection to any of the above countries. When doing so, make sure that available information is made use of systematically and effectively. In addition to basic information on counterparties, this should also include address information, location data, bank and payment details, beneficial ownership information, information on persons

involved in a contractual relationship, etc. Consider how this information can be gathered most effectively both by using systems and involving relevant employees.

- Update and map the following information for business partners from Russia/Belarus and any entities that may be owned by entities or individuals in Russia/Belarus:
  - a) overview of all shareholders of the entity and current ownership percentage;
  - b) identify ultimate beneficial owners of the entity, including details such name, citizenship and date of birth; and
  - c) determine whether someone may have control of the entity by other means than ownership, for instance through shareholders' agreements or consolidation of ownership with associated persons.
- Screen counterparties in relevant sanctions list published by public authorities. Make use of screening tools (if available) and ensure regular and risk-based re-screening of counterparties.
- Assess contractual relationships that are subject to sanctions or restrictions or might pose an increased risk and that were not addressed immediately. Carefully consider contractual rights and obligations in light of the increased risks related to current and future sanctions and reputational considerations. Evaluate how losses can be minimized and whether any remedies are available that may offer some protection, such as insurance coverage, investment treaties<sup>3</sup> or similar.
- Be aware of links to sanctioned parties further up or down the value chain: Importers should take due care to ascertain the origin of the goods they declare since goods may be imported from neighbouring countries of Ukraine, in particular Russia and Belarus. This may specially be the case for coal and steel products.<sup>4</sup> Exporters should implement measures to ensure that goods and technology may not be forwarded/distributed in breach of applicable sanctions laws and regulations.
- Be careful in relation to sanctioned parties attempts to circumvent restrictions. Identify key risks and modus operandi for circumvention in relation to operations and implement measures to target this specifically.

And last but not least, prioritize. Make sure that time-sensitive and high-risk matters are handled in a timely manner by personnel with adequate seniority and competence, and that efforts and sanctions assessments are documented appropriately.

### *How can BAHR support you?*

An effective compliance programme is key for being able to navigate the increasingly complex sanctions and trade restrictions. At BAHR, we regularly assist our clients with establishing, assessing and further developing their compliance programmes, and handling day-to-day compliance challenges. We regularly advise clients on trade sanctions and export control in Norway and the EU, and cooperate with local counsel in other jurisdictions, notably the United States, where need arises. We can also assist you with assessing sanctions risks in relation to specific contracts and engagements.

Feel free to contact us for assistance or an informal conversation on this topic.

<sup>3</sup> Bilateral Investment Treaty between Russia and Norway, in effect since 21 May 1998.

<sup>4</sup> [EUR-Lex - 52022XC0228\(05\) - EN - EUR-Lex \(europa.eu\)](#)

# High-level overview of newly imposed sanctions related to the Russian attack on Ukraine

The US, UK, and EU coordinate their sanctions to a large extent. President Biden has stated that the coalition consisting of the US and allies including the EU, UK, and Australia, together make up over 50% of the world's GDP which amplifies the joint impact of their response. Some differences in sanctions regimes are however to be expected.

The sanctions now imposed against Russia come in addition to the restrictive measures imposed since 2014 for the annexation of Crimea and destabilizing of the situation in Ukraine which were far less far-reaching.

The following overview is meant to give the reader a high-level introduction to the type of measures currently in place in some key jurisdictions. It is not exhaustive and the sanctions regimes in countries around the world are being amended on a continuous basis.

## Norway

Norway will align its sanctions regime with the measures imposed by the EU. Norway will not implement separate national sanctions. This has in the recent days been communicated by various representatives of the Norwegian government and is in line with the Norwegian approach in the past where EU sanctions, as a general rule, were adopted in Norway.

## EU

The EU sanctions pack<sup>5</sup> currently consists of amongst others:

### Extensive asset freeze and travel restrictions: <sup>6</sup>

*Asset freeze measures prohibit making funds or economic resources available to or for the benefit of any person on the list, directly or indirectly:*

- A total of 680 individuals and 53 entities related to Russia and the aggression against Ukraine as of 28 February 2022.<sup>7</sup> This includes high profile individuals and entities undermining or threatening the sovereignty of Ukraine, individuals and entities conducting transactions with separatist groups in the Donbas region, and leading businesspersons or entities involved in economic sectors providing a substantial source of revenue to the Government of Russia.<sup>8</sup>
- All 351 members of the Russian State Duma who voted in favour of the resolution to recognize the Donetsk People's Republic and the Luhansk People's Republic.<sup>9</sup>
- Members of the Russian elite, government, leading businesspersons, and oligarchs, such as President Vladimir Putin and Minister of Foreign Affairs Sergey Lavrov, Igor Sechin (CEO of Rosneft), Alisher Usmanov (pro-Kremlin oligarch), Petr Aven (oligarch, shareholder of Alfa Group) Mikhail Fridman (founder and main shareholder of Alfa Group), Petr Fradkov

<sup>5</sup> [EUR-Lex - 32014R0269 - EN - EUR-Lex \(europa.eu\)](#)

<sup>6</sup> [EUR-Lex - 32022D0265 - EN - EUR-Lex \(europa.eu\)](#) og [EUR-Lex - 32022R0236 - EN - EUR-Lex \(europa.eu\)](#)

<sup>7</sup> [Russia's military aggression against Ukraine: Council imposes sanctions on 26 persons and one entity - Consilium \(europa.eu\)](#)

<sup>8</sup> [EUR-Lex - 32022R0261 - EN - EUR-Lex \(europa.eu\)](#)

<sup>9</sup> [EUR-Lex - 32022R0261 - EN - EUR-Lex \(europa.eu\)](#)

(chairman and the sole executive body of PJSC Promsvyazbank), Joint stock company «Gas Industry Insurance Company SOGAZ » insured the construction of the railway infrastructure.<sup>10</sup>

- 27 individuals and seven entities related to Belarus are listed for the involvement in Ukraine.

#### Financial measures:

- Prohibition to purchase, sell, provide investment services for, or deal with transferable securities issued after 9 March 2022 by Russia and its Government or the Russian Central Bank, or legal person, entity or body acting on behalf of the entities.<sup>11</sup>
- Prohibition to provide or be part of an agreement to provide loans or credit to Russia and its Government, the Russian Central Bank, or be part of any arrangement involving those entities or legal persons or entities acting on behalf of the entities (with some exceptions).<sup>12</sup>
- Russia, the Russian Government, and the Russian Central Bank are prohibited from purchasing and selling securities issued after 9 March 2022, including prohibition of purchasing, selling, providing investment services to those entities.
- Restrictions of providing loans or credit to Russia, the Russian Government, and the Russian Central Bank after 23 February 2022.
- All transactions related to the management of reserves as well as of assets of the Russian Central Bank, including transactions with any individual or entity on behalf of the bank are prohibited.<sup>13</sup>
- Prohibition to sell, supply, transfer or export euro denominated banknotes to Russia or to any natural or legal person, entity or body in Russia, including the government and the Central Bank of Russia, or for use in Russia.<sup>14</sup>

#### Sectorial sanctions:

- Aviation and space industry: Prohibition to sell, supply, transfer or export goods and technology, as well as provision of related technical or financial assistance, suited for use in aviation or space industry, to any natural or legal person, entity or body in Russia or for use in Russia (execution of contracts until 28 March 2022 of contracts concluded before 26 February 2022 may be allowed under certain circumstances).<sup>15</sup> The purpose of a total ban on sale of aircrafts, aircraft components and equipment to Russian airlines is to degrade a key sector of Russia's economy. Three quarters of Russia's current commercial air fleet were built in the EU, the US and Canada.<sup>16</sup>
- Energy sector: Prohibition to sell, supply, transfer or export of specific goods, equipment and technologies in oil refining, as well as provision of related technical or financial assistance, to any natural or legal person, entity or body in Russia or for use in Russia (execution of contracts until 27 May 2022 of contracts concluded before 26 February 2022 may be allowed under

<sup>10</sup> [EUR-Lex - 32022R0336 - EN - EUR-Lex \(europa.eu\)](#)

<sup>11</sup> [EUR-Lex - 32022D0264 - EN - EUR-Lex \(europa.eu\)](#)

<sup>12</sup> COUNCIL DECISION (CFSP) 2022/264

<sup>13</sup> [EUR-Lex - 32022D0335 - EN - EUR-Lex \(europa.eu\)](#)

<sup>14</sup> [Russia's military aggression against Ukraine: EU bans certain Russian banks from SWIFT system and introduces further restrictions - Consilium \(europa.eu\)](#)

<sup>15</sup> Regulation (EU) 833/2014

<sup>16</sup> [Russia's military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions - Consilium \(europa.eu\)](#)

certain circumstances).<sup>17</sup> The purpose is to hit the Russian oil sector and make it impossible to upgrade Russian oil refineries.<sup>18</sup>

- **High technology sector:** Prohibition to sell, supply, transfer or export specific goods, equipment and high technologies, as well as provision of related technical or financial assistance, to any natural or legal person, entity or body in Russia or for use in Russia, which may be used in defence and military sector, for instance telecommunications, information technology, sensors, lasers, maritime applications.<sup>19</sup>
- **Dual use goods:** Prohibition to sell, supply, transfer or export specific dual-use goods and technologies, as well as provision of related technical or financial assistance, to any natural or legal person, entity or body in Russia or for use in Russia.

### Sanctions against the regions Donetsk and Luhansk: <sup>20</sup>

- Prohibition to acquire real estate, entities, or shares, and to provide financing of entities in the areas of Donetsk and Luhansk.
- Restrictions on trade and financing related to certain economic sectors, including transport, telecommunications, energy, production of oil and gas.
- Prohibition of technical assistance, engineering services relating to infrastructure in the areas.
- Prohibition to provide services directly related to tourism activities in the areas.

### Import bans:

- Prohibited to import goods originating in the areas of Donetsk and Luhansk (execution of contracts until 24 May 2022 for contracts concluded before 23 February 2022 may be allowed under certain circumstances).
- Prohibited to provide financing related to the import of goods originating in Donetsk and Luhansk (execution of contracts until 24 May 2022 for contracts concluded before 23 February 2022 may be allowed under certain circumstances).

### Export control in relation to Donetsk and Luhansk:

- Prohibition to trade with certain goods and technologies to individuals or entities in the areas within the transport, telecommunications, energy and production of oil and gas sectors.

### SWIFT ban:

- The EU Council has on 2 March 2022 decided that the following banks shall be excluded from SWIFT from 12 March 2022: Bank Otkritie, Novikombank, Promsvyazbank, Bank Rossiya, Sovcombank, VNESHECONOMBANK (VEB), VTB BANK. The regulation prohibits from providing specialised financial messaging services to the listed banks. The ban will also apply to any individual or entity established in Russia whose proprietary rights are owned

<sup>17</sup> (EU) 2022/328 amending Regulation (EU) No 833/2014

<sup>18</sup> [Russia's military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions - Consilium \(europa.eu\)](#)

<sup>19</sup> [Russia's military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions - Consilium \(europa.eu\)](#)

<sup>20</sup> [EUR-Lex - 32022R0263 - EN - EUR-Lex \(europa.eu\)](#)

for more than 50% by the banks. Banks that are important for the trade of Russian gas to European markets, Sberbank and Gazprombank, have currently not been listed.<sup>21</sup>

- A decision to exclude Russia or specific Russian banks from SWIFT has been heavily discussed. Several major countries have supported a ban, where France, Germany, Italy, the United Kingdom, Canada, and the United States on 1 March 2022 [committed](#) to ensuring that selected banks are removed from the system in a joint statement. In addition, the Netherlands, Austria, Czech Republic, Estonia, Latvia and Lithuania have expressed their support to this measure. Further development involving SWIFT exclusions may be expected.
- The international payment system SWIFT is member-owned by more than 3500 banks and financial institutions, and overseen by central banks of Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, United Kingdom, United States, Switzerland, and Sweden as well as the European Central Bank. SWIFT has taken the stand that it is uninfluenced by politics as an [independent](#) cooperative company, but has on 1 March 2022 published a message about the joint statement where it confirms to comply with applicable sanctions laws and regulations and to disconnect targeted banks upon legal instruction. SWIFT has earlier disconnected banks due to sanctions imposed by EU in a case where [the regulation](#) explicitly targeted financial messaging providers from providing services to EU-sanctioned Iranian banks.

## US

The US sanctions pack currently consists of amongst others:

### **Extensive asset freeze and travel restrictions:**<sup>22</sup>

*Asset freeze measures prohibit to give or receive funds, goods, or services to any listed person:*

- Members of the Russian elite and government, including President Vladimir Putin and Minister of Foreign Affairs Sergey Lavrov.<sup>23</sup>
- Major Russian banks such as VTB Bank Public Joint Stock Company, Public Joint Stock Company Sberbank of Russia and 25 subsidiaries, State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank and 25 subsidiaries, Public Joint Stock Company Bank Financial Corporation Otkritie, Sovcombank OJSC, Sovcombank Technologies Limited Liability Company, and Joint Stock Commercial Bank Novikombank are listed.
- 24 Belarusian entities and individuals, including state-owned banks and defence companies, such as Minsk Wheeled Tractor Plant (MZKT), and senior executives of MZKT Aliaksei Ivanavich Rymasheuski and Aliaksandr Piatrovich Vetsianevich. Defence officials are also sanctioned, such as the Belarusian Minister of Defense Viktor Gennadievich Khrenin.
- Belarusian state-owned banks such as Belarussian Bank of Development and Reconstruction Belinvestbank Joint Stock Company, Bank Dabrabyt Joint-Stock Company.

<sup>21</sup> Russia's military aggression against Ukraine: EU bans certain Russian banks from SWIFT system and introduces further restrictions - Consilium (europa.eu)

<sup>22</sup> Executive order 14065 of February 21, 2022 and directive 4 Russia-related Designations; Issuance of Russia-related Directive 4 and Russia-related General License 8A | U.S. Department of the Treasury

<sup>23</sup> Executive order 14024



- Belarusian Limited Liability Company Belinvest-Engineering and financial leasing company CJSC Belbizneslizing.

#### Financial measures:

- Sanctions against Russia's central bank, the Central Bank of the Russian Federation, prohibiting any transaction, including transfer of assets or foreign exchange transactions, involving the Russian Central Bank, the National Wealth Fund of the Russian Federation and the Ministry of Finance of the Russian Federation.<sup>24</sup>
- Prohibition of making transactions, financing, and dealings in new debt under specified conditions of listed entities such as Credit Bank of Moscow Public Joint Stock Company, Gazprombank Joint Stock Company, Joint Stock Company Alfa-Bank, Public Joint Stock Company Sberbank of Russia, Public Joint Stock Company Transneft.<sup>25</sup>
- U.S. financial institutions are prohibited from maintaining correspondent accounts and processing transactions involving foreign financial institutions determined to be subject to the prohibitions of the Russia-related CAPTA Directive, or their property, or interests in property. Financial institutions subject to the prohibitions of the CAPTA Directive are, for instance, Arimero Holding Limited, Joint Stock Company Sberbank and subsidiaries, and IKS Joint Stock Company.<sup>26</sup>

#### Sectorial sanctions against Russia:

- Technology, targeting Russian military forces, aviation, and maritime sector.

#### Export control:

- Restrictions on goods produced in America such as technology and software to Russia.
- Total export ban to Luhansk and Donetsk regarding any goods, services or technology from the US or by an US person.
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## UK

The UK sanctions pack<sup>27</sup> currently consists of amongst others:

#### Extensive asset freeze and travel restrictions:

- More than 100 Russian individuals and entities, including the largest company in the Russian defence sector, Rostec, Tactical Missile Corporation, Uralvagonzavod. It has been confirmed that further listings will be made in the coming days.
- Members of the Russian elite, government, leading businesspersons, and oligarchs, including five members of Vladimir Putin's close associates, Kirill Shamalov, Gennadij Timtsjenko, Boris Rotenberg and Igor Rotenberg.

<sup>24</sup> [Treasury Prohibits Transactions with Central Bank of Russia and Imposes Sanctions on Key Sources of Russia's Wealth | U.S. Department of the Treasury](#), under directive 3 and directive 4 of the under executive order 14024

<sup>25</sup> Directive 3 under executive order 14024

<sup>26</sup> [https://home.treasury.gov/system/files/126/correspondent\\_accounts\\_directive\\_2.pdf](https://home.treasury.gov/system/files/126/correspondent_accounts_directive_2.pdf) under executive order 14024 (Russian Harmful Foreign Activities Sanctions at [Russian Harmful Foreign Activities Sanctions | U.S. Department of the Treasury](#))

<sup>27</sup> [UK Statement on Further Economic Sanctions Targeted at the Central Bank of the Russian Federation - GOV.UK \(www.gov.uk\)](#)

- Major Russian banks such as VTB Bank, PJSC Sberbank, VEB.RF, PJSC SovComBank, Bank Otkritie Financial Corporation PJSC, PJSC Promsvyazbank, IS Bank, Black Sea Bank, Bank Rossija, Promsvyazbank.

#### Financial measures:

- Financial sanctions against major Russian banks such as VTB Bank, Gazprom bank and VEB.RF restricting dealing in instruments issued by them.
- Prohibition of providing financial for the purpose of foreign exchange reserve and asset management services to the Central Bank of Russia, the National Wealth Fund of the Russian Federation and the Ministry of Finance of the Russian Federation.<sup>28</sup>
- Major Russian companies are prohibited from obtaining financing in the British markets. State-owned entities are also prohibited from taking up government debt in British markets.
- Russian and Belarus citizens are prohibited from deposits over 50,000 pounds in British banks.

#### Sectorial sanctions:

- Goods, dual-use goods and technology to and for use in Russia, including technical or financial services, which may be used in defence and military sector, for instance telecommunications, sensors and lasers to.<sup>29</sup>
- Measures targeting the shipping sector, ports and vessels.

## Ongoing discussions about additional measures

Authorities globally are assessing and discussing on an ongoing basis whether additional measures should be imposed in light of the war in Ukraine. It is thus crucial that companies follow the developments and make sure that their sanctions risk assessments are continuously adjusted in light of newly imposed measures.

*Disclaimer: This newsletter comprises only general information on selected trade sanctions and export control laws and regulations in Norway, the EU, UK and US and is not exhaustive and may be updated from time to time. This overview is prepared for information purposes only and shall neither be considered nor constructed as legal advice in any respect. No liability or responsibility is accepted as a result of the newsletter.*

<sup>28</sup> [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 5\) Regulations 2022 \(legislation.gov.uk\)](#)

<sup>29</sup> [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) \(No. 3\) Regulations 2022 \(legislation.gov.uk\)](#)

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