



**Ukraine Conflict
Russian related Sanctions
-
DS Avocats offer of services**



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CONTEXT

Since 2014, following the annexation of Crimea peninsula by Russia, the EU and the US have adopted a number of coordinated economic sanction targeting Russian entities and persons.

Theses sanctions covered:

- Limitations on certain state owned banks, energy and space/nuclear companies from getting access to EU and US medium or long-term capital markets for new transferable securities,
- Export control on certain technologies and items,
- Prohibition on certain oil and gas equipment for use in Russian deep-water Arctic or shale uses.

NEW SANCTIONS

Following the recognition of Donbass region as independent and the invasion of Ukraine by Russia, Western states have started to adopted numerous and significant sanctions against Russia and Belarus.

As an overview, theses sanctions target:

- Geographical based restrictions,
- Asset freezing sanctions,
- Capital market and financial market restrictions,
- Export controls,
- Sectors restrictions,
- Limited restrictions on listed persons.

GEOGRAPHICAL BASED SANCTIONS

These sanctions have essentially imposed **an embargo** on Donetsk and Luhansk regions.

US	EU
<p>Prohibits U.S. Persons to export any goods or services to, import any goods or services from, or invest in the DNR and LNR</p> <ul style="list-style-type: none">▪ OFAC has not clarified the geographic boundaries of the DNR and LNR▪ Various General Licenses authorizing activity related to humanitarian services or government or intergovernmental work in these regions	<p>Prohibits</p> <ul style="list-style-type: none">▪ Imports from DNR and LNR▪ New investment in DNR and LNR▪ Sale/Supply/Transfer of specific goods to DNR and LNR▪ Tourism services

ASSET FREEZING SANCTIONS

Asset freezing sanctions adopted by both US and the EU have essentially targeted Financial Institutions including their subsidiaries.

Financial Institutions	EU	US
Bank Rossiya	✓	✓
Black Sea Bank for Development and reconstruction		✓
IS Bank		✓
JSC Bank Novikombank		✓
PJSCBank Fiancial Corporation Otkritie		✓
Promsvyazbank	✓	✓
Russian Direct Investment Fund (included its management company)		✓
LLC RVC Management Company		✓
Sovcombank		✓
VEB	✓	✓
VTB		✓

ASSET FREEZING SANCTIONS

Asset freezing sanctions adopted by both US and the EU have also targeted:

- Oligarchs,
- Politicians (i.e. 351 member of the Russian DOUMA, President Vladimir Poutin, Foreign Minister Sergei Lavrov, etc.),
- Belarus military leaders.

Given Russian broad business interests and designated oligarchs, it is necessary for western operators to perform company and customer checks.

CAPITAL MARKET AND FINANCIAL MARKET RESTRICTIONS

Lending Restrictions and SWIFT restrictions

US	EU
<p>Directive 1A</p> <p>New restrictions capture the secondary markets</p> <p>U.S. financial institutions are now broadly prohibited to participate in:</p> <ul style="list-style-type: none"> ▪ Primary market for certain bonds after June 14, 2021 ▪ Lending funds to Russian sovereign issuers after June 14 ▪ <u>NEW:</u> Participating in the secondary market for bonds by Russian sovereign investors 	<p>Announced intention to follow U.S. on Central Bank restrictions; not yet implemented</p> <p>Prohibitions on:</p> <ul style="list-style-type: none"> ▪ Listing or provision of services on trading venues registered in the EU of any transferable securities of any Russian entity with 50% or more public ownership ▪ Union central securities depositories to provide any services (as defined in EU 909/2014) for transferable securities issued after April 12, 2022 to any Russian person ▪ The sale of Euro denominated transferable securities or any collective investment undertakings providing exposure to such securities issued after April 12, 2022 to any Russian person (other than EU nationals or residents).
<p>U.S. Directive 4</p> <p>U.S. Persons prohibited from undertaking “any transaction involving”</p> <ul style="list-style-type: none"> ▪ the Central Bank of the Russian Federation (“CBR”); ▪ the National Wealth Fund of the Russian Federation; ▪ the Ministry of Finance of the Russian Federation; 	<p>Swift restrictions on:</p> <ul style="list-style-type: none"> ▪ Bank Otkritie ▪ Novikombank ▪ Promsvyazbank ▪ Bank Rossiya ▪ Sovcombank ▪ VNESHECONOMBANK (VEB) ▪ VTB BANK <p>Restrictions apply to subsidiaries owned 50% or more by these banks Effective March 12, 2022</p>

EXPORT CONTROLS

US	EU
<p><u>Dual Use Export Restrictions</u></p> <ul style="list-style-type: none"> ▪ Additional license requirements for exports, re-exports, and transfer (in-country) of items in all ECCNs in Categories 3 – 9. ▪ EAR99 goods are not yet covered, unless the end user is Entity List/MEU designated 	<p><u>Dual Use Export Restrictions</u></p> <p>License required for all items on the Dual Use List</p>
	<p><u>Additional Sector-Based Controls</u></p> <p>Certain enumerated products suitable for (a) defense or technological enhancement; or (b) use in oil refining</p>
<p><u>End-User Based Controls</u></p> <ul style="list-style-type: none"> ▪ U.S. Military End-User: Expands the MEU controls to include all items subject to the EAR ▪ U.S. Entity List 	
<p><u>U.S. Export Controls Jurisdictional Reach</u></p> <ul style="list-style-type: none"> ▪ Foreign direct product rule amendments ▪ Only available license exceptions for Russia: TMP, GOV, TSU, BAG, AVS, ENC and CCD 	

SECTORS RESTRICTIONS

Energy sector:

- ✓ US.: SDN Designation of Nord Stream 2 AG,
- ✓ EU has prohibited sale, supply, or transfer (including technical assistance and financing) of goods that are suited for use on oil refining, regardless of whether from the EU or not.

Aviation sector:

- ✓ Russian air carriers prohibited from EU/U.S. airspace.

LIMITED RESTRICTIONS ON LISTED PERSONS

US	EU
<p><u>Debt/Credit Restrictions</u></p> <p>Directive 3: 14 day maturity period for debt/credit for 13 Russian entities, including Gazprombank, Gazprom, Gazprom Neft, Sberbank, Transneft, and several others</p>	<p><u>Debt/Credit Restrictions</u></p> <p>Amended existing rules to</p> <ul style="list-style-type: none"> (a) add new targets in the financial sector and SOE sectors and (b) prohibit loans and money market instruments issued after April 12, 2022 for previous “sectoral” targets as well as newly listed entities (previously was 30 day period)
<p><u>Sberbank Focus</u></p> <p>Directive 2 (Under EO 14042)</p> <ul style="list-style-type: none"> ▪ Prohibits U.S. financial institutions from processing any transaction, including maintaining a correspondent account or payable through account, for Sberbank and its listed subsidiaries 	

RUSSIAN COUNTERMEASURES (1/2)

Decree No. 81, [On Additional Temporary Measures of Economic Nature to Secure Financial Stability of the Russian Federation](#)” (Decree), on 1 March 2022, which follows [decree No. 79 of 28 February 2022](#).

- Prior clearance by the Government Commission **on Control over Foreign Investments** is required for the following transactions between Russian residents (both natural persons and corporates) and foreign persons that are residing/registered or have their main place of business/main source of income in a country that has imposed sanctions against Russian citizens or businesses (affected foreign persons)
 - **Extending loans and credit facilities in Russian rubles to the affected foreign persons** (unless such transactions violate Russian laws).
 - **Transactions with affected foreign persons resulting in transfer of ownership to any securities or real estate.**
 - Certain transactions that have been previously banned by the 28 February decree, namely:
 - **extending loans in foreign currency by Russian residents to the affected foreign persons and forex transfers by Russian residents to their own accounts with foreign financial institution;**
 - **making forex transfers with the use of foreign epayment systems without opening a bank account.**

RUSSIAN COUNTERMEASURES (2/2)

- Within five days from the Decree, the Russian government must adopt a procedure for clearance issuance.
- **Apply to any transaction made between Russian residents and non-affected foreign persons** if such transaction relates to securities and/or real estate acquired by non-affected foreign persons from the affected foreign persons after 22 February 2022.
- **Transactions (operations) aimed at the acquisition by affected foreign persons of any securities** may be made through organized trades at a stock exchange, subject to a permission by the Central Bank upon consultation with the Ministry of Finance. The requisite permission will state the terms and conditions of the permitted transaction (operation).
- **Credit institutions are allowed to make forex transfers to their correspondent accounts opened with foreign banks** subject to the restrictions imposed by the Decree.

OUR SERVICES AND ACTIVITIES

Non-listed clients

We provide compliance monitoring of our clients' supply chains by:

- Setting and drafting internal compliance policies and guidelines;
- Performing entity and persons checks for our clients in order to stress potentially problematic direct or indirect relationships with listed individuals or entities including financial institutions.

Following these compliance checks we submit adapted recommendations to our clients.

Listed clients:

We provide support to entities and individuals targeted by sanctions in their delisting process by:

- Providing delisting negotiations before the competent authorities;
- Assisting and representing our clients in front of jurisdiction to contest their registration.

Warning: *DS Avocats bears in mind national recommendation concerning national or private conflict of interests and acts within the framework of the recommendations and decisions taken by the competent authorities*

DS TRADE & CUSTOMS PRACTICE TEAM

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