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Sanctions Update: EU, UK, and Japan Impose New Sanctions and Export Controls Relating to Russia

New rules significantly expand the scope of existing sanctions on Russia and impose extensive new export controls.

This *Client Alert* is published in the context of fast-moving developments and should be read in conjunction with the Latham & Watkins [Client Alert](#) published on 25 February 2022. Significant additional measures are expected to be introduced in the coming days.

Recently, the US, the EU, and the UK announced that they will exclude some Russian banks from the SWIFT global payment system, a move that is expected to have a significant impact on these banks' ability to remain connected with the international financial system and operate globally. The EU also announced plans to restrict the activities of certain Russian media outlets.

EU Sanctions

Late on February 25, 2022, the EU published in its [Official Journal](#) a series of Council Decisions and Regulations implementing a number of new sanctions on Russia. Most importantly:

- [Council Regulation \(EU\) 2022/328](#) (Regulation 2022/328) expands significantly the restrictive measures contained in Regulation (EU) 833/2014 (Regulation 833/2014) that have since 2014 restricted certain listed Russian financial institutions, energy companies, and military companies, along with their non-EU subsidiaries, and those acting on behalf or at their direction, from accessing the EU capital markets and obtaining loans and credit. The new regulation expands the existing restrictions on dealings with transferable securities and money-market instruments, and introduces a number of important new restrictions on the ability of Russian natural and legal persons to access the EU financial systems. It also introduces new export controls prohibiting or restricting the export not only of dual-use goods and technology that might contribute to Russia's technological enhancement, but also goods and technology in the oil refining, aviation, and space industries.
- [Council Regulation \(EU\) 2022/330](#) has updated and broadened the language in Regulation (EU) 269/2014, permitting persons to be added onto the EU asset-freeze list for actions undermining or threatening the territorial integrity, sovereignty, and independence of Ukraine.

- [Council Regulation \(EU\) 2022/332](#) (implementing Regulation (EU) 269/2014) adds a number of individuals and entities to the EU asset-freeze list, including Russia's President Vladimir Putin and Foreign Minister Sergei Lavrov.
- [Council Regulation \(EU\) 2022/300](#) (implementing Regulation (EU) 756/2006, which concerns restrictive measures put in place in 2006 in view of the situation in Belarus) adds a number of individuals and entities to the EU asset-freeze list.

On 28 February 2022, the EU adopted [Council Regulation \(EU\) 2022/334](#) (Regulation 2022/334), which further updates Regulation 833/2014, prohibits Russian air carriers from entering EU airspace, and, importantly, prohibits transactions related to the Russian Central Bank.

On 28 February 2022, the EU also adopted [Council Regulation \(EU\) 2022/336](#) (implementing Regulation (EU) 269/2014), which adds a number of high-profile Russian individuals or so-called "oligarchs" to the EU asset-freeze list.

Regulation 2022/328 and Regulation 2022/334 — amending Regulation 833/2014

On February 25, 2022, through [Council Regulation \(EU\) 2022/328](#), the EU implemented extensive amendments to the sanctions previously imposed by [Regulation \(EU\) 833/2014](#). Specifically, Regulation 2022/328 sets out further restrictions in various sectors, particularly defence, energy, aviation, and finance. Regulation 2022/328 also:

- Imposes further restrictions on exports of goods and technology considered to have "dual-use" functions (i.e., civilian and military applications) and the provision of related services, as well as restrictions on exports of certain goods and technology that might contribute to Russia's technological enhancement.
- Includes limited exemptions for legitimate and pre-determined purposes, including humanitarian purposes, health emergencies, and medical or pharmaceutical purposes.
- Prohibits the provision of public financing or financial assistance for trade with, or investment in, Russia, subject to certain exceptions.
- Prohibits the sale, supply, transfer, or export to Russia of specific goods and technologies for use in oil refining, together with restrictions on the provision of related services.
- Imposes an export ban (including a ban on the provision of technical assistance and other related services as well as financing and financial assistance) covering goods and technology suited for use in the aviation and space industries and prohibits the provision of insurance and reinsurance and maintenance services in relation to those goods and technologies.
- Expands the pre-existing capital and debt market sanctions, including by certain Russian entities' access to the EU capital markets, and introduces new measures that significantly restrict Russian natural and legal persons' access to the EU finance industry.

In addition, the new measures set out in Regulation 2022/334 prohibit:

- Takeoffs, landings, and overflights by "Russian air carriers"; and

- Transactions “related to the management of reserves as well as of assets of the Central Bank of Russia”.

Exports of dual-use goods and technology (Regulation 2022/328)

The EU under the pre-existing sanctions regime prohibited the export of dual-use items to or for use in Russia where they could be intended for military use or for a military end-user, along with the export of dual-use items to a list of nine Russian defence sector entities.

The updated dual-use sanctions set out in Regulation 2022/328 go further. The EU now prohibits the export of dual-use goods and technology to “any natural or legal person, entity or body in Russia or for use in Russia.” Certain types of “technical” and “financial” “assistance” are also prohibited.

These prohibitions are subject to limited exemptions (e.g., for humanitarian purposes, pharmaceutical purposes, and the “personal use of natural persons travelling to Russia” and “not intended for sale”).

The prohibitions are also subject to limited “derogations” that can be granted by the competent authorities of EU Member States (such when intended by non-military users for the “safety of civil nuclear capabilities” or arising from contracts “concluded before 26 February 2022, or ancillary contracts necessary for the execution of such a contract, provided that the authorisation is requested before 1 May 2022”). However, no derogation will be granted (unless for “urgent” prevention of disaster or where the dealings relate to contracts struck before 26 February 2022) if the competent authorities “have reasonable grounds to believe that” the dual-use items:

- Might have a military end-use;
- Are “intended for aviation or the space industry”; or
- Might be one of the persons on a greatly expanded list of Russian defence sector entities.

The list of Russian defence sector entities has been increased from the previous nine to the 64 listed in Annex III of Regulation 2022/328, which lists Russian defence and technology companies and shipyards.

Exports “which might contribute to Russia’s military and technological enhancement” (Regulation 2022/328)

Regulation 2022/328 prohibits exports (and related activities including “technical” and “financial” “assistance”) of certain “goods and technology which might contribute to Russia’s military and technological enhancement, or the development of the defence and security sector”.

These goods and technologies, which are listed in Annex VI of Regulation 2022/328, include a wide set of items such as superconductors and advanced radio and radar equipment. The restrictions on the export of these items are subject to similar exemptions and derogations as for dual-use goods.

Prohibition on “public financing or financial assistance for trade with, or investment in, Russia” (Regulation 2022/328)

By introducing a new Article 2e into Regulation 833/2014, Regulation 2022/328 prohibits providing “public financing or financial assistance for trade with, or investment in, Russia.”

This prohibition is subject to the limited exceptions of “binding” commitments established prior to 26 February 2022, financing of up to €10 million for “small and medium-sized” EU businesses and for “agricultural, medical or humanitarian purposes”.

Goods and technology for use in oil refining (Regulation 2022/328)

By introducing a new Article 3b into Regulation 833/2014, Regulation 2022/328 prohibits the sale, supply, transfer, or export to Russia of certain goods and technologies suited for use in oil refining. Regulation 2022/328 also prohibits related “financial” or “technical” “assistance” and provides for limited exemptions and derogations similar to those described above.

Goods and technology for use in aviation (Regulation 2022/328)

By introducing a new Article 3c into Regulation 833/2014, Regulation 2022/328 prohibits the sale, supply, transfer or export to Russia of certain goods and technologies suited for use in aviation or the space industry. Regulation 2022/328 also prohibits related “financial” or “technical” “assistance” and provides for limited exemptions and derogations similar to those described above.

Access to EU capital markets (Regulation 2022/328)

Importantly, Regulation 2022/328 expands upon the existing sanctions in Regulation 833/2014 restricting certain listed Russian entities from access to the EU capital markets. The updated Regulation 833/2014 also now prohibits:

- The listing and provision of services as of 12 April 2022 on EU trading venues for shares of Russian entities with over 50% public ownership;
- The acceptance of deposits exceeding €100,000 from Russian nationals or residents, subject to certain exceptions;
- EU central securities depositories from providing services to Russian nationals or residents; and
- The sale of euro-denominated securities issued after 12 April 2022 to Russian nationals or residents.

The definition of “transferable securities” has been expanded in both [Regulation 2022/262](#), which was published on 23 February 2022, and Regulation 2022/328 to include any securities “giving rise to a cash settlement determined by reference to transferable securities”, whereas previously it only included “securities giving the right to acquire or sell any such transferable securities”. As a result, certain cash-settled equity and credit derivatives now fall within the scope of these restrictions, irrespective of whether they include an option for a party to elect to physically settle such derivative.

Regulation 2022/328 also expands the scope of Article 5 of Regulation 833/2014 to prohibit dealings with *any* new transferable securities and money market instruments issued by the listed entities or their non-EU subsidiaries after 12 April 2022. The restrictions also prohibit extending “any new loans and credit” to these entities from after 26 February 2022 (subject to limited exemptions). The entities listed in respect of these restrictions are:

1. Sberbank
2. VTB Bank
3. Gazprombank
4. Vnesheconombank (VEB)
5. Rosselkhozbank

(The above entities are listed on the grounds that they are “major credit institutions, or major institutions having an explicit mandate to promote competitiveness of the Russian economy, its diversification and encouragement of investment, established in Russia with over 50% public ownership or control as of 1 August 2014”.)

1. Alfa Bank
2. Bank Otkritie
3. Bank Rossiya
4. Promsvyazbank

(These are listed on the grounds that they are “major credit institutions, or institutions with over 50% public ownership or control as of 26 February 2022 or credit institutions having a significant role in supporting the activities of Russia, its government or the Central Bank and established in Russia”.)¹

1. Opk Oboronprom
2. United Aircraft Corporation
3. Uralvagonzavod

(These are listed on the grounds that they are “legal persons, entities or bodies established in Russia predominantly engaged, and with major activities, in the conception, production, sales or export of military equipment or services”.)

1. Rosneft
2. Transneft
3. Gazprom Neft

(These are listed on the grounds that they are “legal persons, entities or bodies established in Russia, which are publicly controlled or with over 50% public ownership and having estimated total assets of over RUB 1 trillion (EUR 10,574,232,000) and whose estimated revenues originate for at least 50% from the sale or transportation of crude oil or petroleum products”.)

1. Almaz-Antey
2. Kamaz
3. Novorossiysk Commercial Sea Port
4. Rostec (Russian Technologies State Corporation)
5. Russian Railways
6. JSC PO Sevmash

7. Sovcomflot

8. United Shipbuilding Corporation

(These are listed on the grounds that they are “legal persons, entities or bodies established in Russia, which are publicly controlled or with over 50% public ownership and in which Russia, its Government or Central Bank have the right to participate in profits or with which Russia, its Government or Central Bank have other substantial economic relationships”.)

As with previous EU sanctions, the restrictions targeting these entities also affect their non-EU subsidiaries that are “directly or indirectly owned [by] more than 50%” and any legal persons otherwise acting on their behalf or at their direction.

Additionally, Regulation 2022/328 introduces several important new provisions into Regulation 833/2014:

- New Article 5(5) in Regulation 833/2014 prohibits “list[ing] and provid[ing] services as of 12 April 2022 on trading venues registered or recognised in the EU for the transferable securities of any legal person, entity or body established in Russia and with over 50% public ownership”.
- New Article 5b in Regulation 833/2014 prohibits “accept[ing] any deposits from Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds EUR 100,000”.

This restriction on accepting deposits is subject to several exemptions and derogations — most notably, that it “shall not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State”.

- New Article 5e in Regulation 833/2014 prohibits EU central securities depositories from “provid[ing] any services (as defined in the Annex of Regulation (EU) No 909/2014) for transferable securities issued after 12 April 2022 to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia”.

This restriction targets access to Euroclear and Clearstream, and will impact Russian financial institutions’ ability to access the EU clearing systems. Given the breadth of services provided by Euroclear and Clearstream across the capital, derivatives, stock lending and repo markets, this restriction is likely to have a wide-ranging impact. As with many other restrictions, the legislation exempts “nationals of a Member State” or “natural persons” with “a temporary or permanent residence permit” in a Member State.

- New Article 5f in Regulation 833/2014 prohibits “sell[ing] euro denominated transferable securities issued after 12 April 2022 or units in collective investment undertakings providing exposure to such securities to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia”. As with the above restriction, the legislation exempts “nationals of a Member State” or “natural persons” with “a temporary or permanent residence permit” in a Member State.
- New Article 5g in Regulation 833/2014 requires “credit institutions” to supply to their national competent authorities by no later than 27 May 2022 “a list of deposits exceeding 100,000 EUR held by Russian nationals or natural persons residing in Russia, or by legal persons, entities or bodies

established in Russia”. The credit institutions are to provide “updates” on these deposit amounts “every 12 months”.

Prohibitions affecting “Russian air carriers” (Regulation 2022/334)

Regulation 2022/334 provides for new Articles 3d and 3e in Regulation 833/2014, which prohibit “any aircraft operated by Russian air carriers” (as well as “any Russian registered aircraft” and non-Russian-registered aircraft that are owned/chartered or “otherwise controlled by any Russian natural or legal person, entity or body”) from landing in, taking off from, or overflying the territory of the EU.

The prohibition allows for limited exceptions and derogations in cases of “emergency” or for “humanitarian” purposes.

Prohibitions affecting the “reserves” and “assets” of Russia’s Central Bank (Regulation 2022/334)

Regulation 2022/334 updates Article 5a (which had previously been added to Regulation 833/2014 through [Council Regulation \(EU\) 2022/262](#)) to provide that:

“Transactions related to the management of reserves as well as of assets of the Central Bank of Russia, including transactions with any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia, are prohibited.”

New paragraph 5a(5) allows competent authorities of Member States to authorise a derogation for a transaction “provided that it is strictly necessary to ensure the financial stability of the Union as a whole or of the Member State concerned”.

Limited derogation regarding Bank Rossiya, Promsvyazbank and VEB

As described in Latham’s 25 February *Client Alert*, [Council Regulation \(EU\) 2022/259](#) has introduced a derogation for certain new asset-freeze targets.

This provision allows the competent authority of a relevant Member State to authorise dealings with frozen funds in very limited circumstances. Specifically, in relation to [Bank Rossiya](#), [Promsvyazbank](#), and [VEB](#) (which were added to the EU asset-freeze list on 23 February 2022 via [Council Implementing Regulation \(EU\) 2022/260](#)), a competent authority of a Member State is allowed to: (i) authorise the release of certain frozen funds or economic resources belonging to these entities, or (ii) make available certain funds or economic resources to these entities, under such conditions as the competent authorities deem appropriate and after having determined that such funds or economic resources are necessary for the termination by 24 August 2022, of operations, contracts, or other agreements, including correspondent banking relations, concluded with those entities before 23 February 2022.

UK Sanctions

There have been several updates to the UK sanctions regime. Notably:

- Like the EU, the UK added Russia’s President Putin and Foreign Minister Lavrov to its [Consolidated List of Asset Freeze Targets](#).
- The UK has also added the following Russian banks to the [Consolidated List](#):
 - VEB.RF
 - Bank Otkritie Financial Corporation PJSC

- PJSC Sovcombank
- The UK's Office for Financial Sanctions Implementation (OFSI) introduced [General Licence NT/2022/1272278](#) under Regulation 64 of Russia (Sanctions) (EU Exit) Regulations 2019 (the UK Russia Regulations).

This allows for a 30-day wind-down period of positions involving VTB Bank (which was placed on the UK's Consolidated List last week).

Under the licence, a person under UK jurisdiction may for a time-limited period continue to transact with VTB or its UK Subsidiary, VTB Capital plc, or any entity owned or controlled by VTB Capital plc incorporated in the UK, if those dealings are necessary to wind down any transactions involving those entities. The same person, "relevant institution" (such as financial institutions), or the relevant VTB entities can carry out any activity reasonably necessary to effect the wind-down transactions. The General Licence took effect from 25 February 2022 and expires on 27 March 2022.

In a [press release](#) published on 28 February 2022, the UK government announced further sanctions, which will include:

- Restrictions prohibiting UK persons from undertaking financial transactions involving:
 - The Central Bank of Russia
 - The Russian National Wealth Fund
 - Russia's Ministry of Finance
- Measures aimed at preventing Russian companies from issuing transferable securities and money-market instruments in the UK
- Further prohibitions on exporting "high-end and critical technical equipment" to Russia
- A power to designate certain banks, preventing them from accessing GBP Sterling and clearing payments through the UK. The UK government states that banks subject to this measure "will be unable to process any payments through the UK or have access to UK financial markets."

Relatedly, on 1 March 2022, the UK amended the list of persons named in relation to financial and investment restrictions in respect of PJSC Sberbank. It also released the following General Licences:

- [General Licence INT/2022/1277777](#) (authorizing the wind-down of certain transactions related to transferable security, money-market instruments, and sovereign debt until 8 March 2022);
- [General Licence INT/2022/1277778](#) (authorizing the wind-down of correspondent bank relationship with Sberbank and GBP payments to, from, or via Sberbank and its UK and non-UK subsidiaries until 31 March 2022); and
- [General Licence INT/2022/1277877](#) (authorizing the wind-down of GBP payments to, from, or via Sberbank and its UK and non-UK subsidiaries for the purpose of making certain energy products available for use in the UK until 24 June 2022).

Japan Sanctions

On 23 February 2022, Prime Minister Fumio Kishida [announced](#) that initial sanctions will be imposed, details of which were provided in the Japanese government's announcement on 26 February 2022.

These include:

- Requiring pre-approval of (i) payment to and (ii) capital transactions (i.e., deposit, trust, and loan agreement) between 24 individuals of the two separatist regions and Bank Rossiya. In practice, these “pre-approval” requirements appear to amount to a virtual prohibition. The sanctions against Bank Rossiya will commence on 28 March 2022.
- Prohibiting trades between the two separatist regions and Japan (i.e., prohibiting trading when the two separatist regions are the place of origin or destination).
- Prohibiting issuance and trading in Japan of new sovereign bonds (Securities) by the government of the Russian Federation, the government agencies of the Russian Federation, and the Central Bank of the Russian Federation — more specifically, pre-approval of the Japanese government will be required to participate in the following in Japan:
 - Issuance or offering of the Securities
 - Purchase or sale of the Securities
 - Provision of labor or service in relation to issuance or offering of the Securities
- Prohibiting issuance of new securities that have redemption periods over 30 days by the Central Bank of the Russian Federation.
- Prohibiting exports and provision of labor regarding items listed on Multilateral Export Control Regimes.

On 26 February 2022, the Ministry of Foreign Affairs [released](#) a statement by Foreign Minister Yoshimasa Hayashi outlining the following sanctions:

- Suspension of the issuance of entry visas to Japan for designated individuals related to Russia and freeze the assets held by designated individuals and entities related to Russia in Japan.
- Freezing assets of three Russian banks (VEB.RF, Promsvyazbank, and Bank Rossiya) in Japan.
- Imposing sanctions on exports to Russian military-related entities and on exports of controlled items listed on the internationally agreed list and other dual-use goods such as semiconductors.

On 27 February 2022, Prime Minister Kishida [announced](#) that the following sanctions would also be imposed:

- Joining in US and EU SWIFT bans on Russian banks
- Freezing the assets of Russian President Putin and other Russian government officials.

What's Next?

Significant additional measures are expected to be introduced by the US, the EU, the UK, and Japan in the coming days.

Latham & Watkins is tracking developments across all regions closely and expects that the US, EU, UK, and other governments around the world may impose additional rounds of sanctions as events unfold. The firm is well positioned to advise clients on the legal and practical impacts of these measures.

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Endnotes

¹ Notably, as part of the recent EU measures, Regulation 2022/262 of 23 February 2022 introduced a new restriction: it is prohibited to "directly or indirectly purchase, sell, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instrument issues after 9 March 2022" by: (i) Russia and its government; (ii) The Central Bank of Russia; and (iii) A legal person, entity or body acting on behalf or at the direction of the Central Bank of Russia.