

Sanctions Update: EU Designates Sberbank and Further Enhances Sanctions Against Russia

The EU's "maintenance and alignment" sanctions target additional Russian persons, enhance existing sanctions, and implement new prohibitions — including on the import of Russian gold.

This Client Alert is published in the context of ongoing developments and should be read in conjunction with Latham's [previous sanctions updates](#). Given the frequency with which different jurisdictions are imposing new sanctions on Russia, businesses exposed to sanctions-related developments in Russia should obtain up-to-date legal advice before taking any steps that may have legal effects.

The EU's Seventh Package

On 21 July 2022, the EU released its seventh package of sanctions in response to Russia's February 2022 invasion of Ukraine. The EU has [billed](#) this set of sanctions as a "maintenance and alignment" package designed to tighten and strengthen existing sanctions, while also further aligning the EU's position with that of its international partners — particularly its G7 partners, including the US and the UK.

New Designations — Including on Sberbank

Multiple Asset-Freeze Designations

[Council Implementing Regulation 2022/1270](#) targets dozens of new natural and legal persons, including high-ranking members of the so-called "Nightwolves" motorcycle gang, which the EU accuses of promoting Russian propaganda in Europe. Meanwhile, [Council Implementing Regulation 2022/1274](#) targets Syrian mercenaries fighting alongside Russian troops.

These regulations place the designated persons onto Annex I of [Council Regulation \(EU\) No. 269/2014 \(as amended\)](#) (Regulation 269). Persons on Annex I of Regulation 269 are subject to Article 2 of that regulation, which requires:

- a) "all funds and economic resources belonging to, owned, held or controlled by" the designated persons "shall be frozen"; and
- b) "no funds or economic resources shall be made available, directly or indirectly, to or for the benefit of" the designated persons.

The [EU's Best Practices Guidelines](#) explain that these prohibitions also apply to legal persons who are not designated themselves, but who are “controlled” by designated persons or “owned” by “more than 50%” by a combination of designated persons. Where the guidelines’ criteria for ownership or control are met, then “the making available of funds or economic resources to the non-listed legal persons” that are owned or controlled by the designated persons “will in principle be considered as making them indirectly available to [the designated persons]” (unless it can reasonably be shown otherwise on a case-by-case basis).

Sberbank

Amongst the new asset-freeze targets, arguably the most significant new entry is the major Russian financial institution Sberbank.

The EU had previously required that Sberbank be disconnected from the SWIFT messaging service (see our Client Alert dated [10 June 2022](#)). However, since April 2022, both the US and the UK have designated Sberbank under their corresponding blocking or asset-freeze regimes (see our Client Alert dated [12 April 2022](#)). The EU’s latest move accordingly now puts the EU in alignment with those international partners.

The EU’s new sanctions package also provides for several limited “derogations” from the new asset-freeze. These are contained in [Council Implementing Regulation 2022/1273](#). This new regulatory text amends Regulation 269 by permitting the “competent authorities” of an EU Member State to authorise the release of certain Sberbank frozen funds or economic resources (or certain funds or economic resources being made available to Sberbank) in certain situations. These situations are if the national competent authority determines that such funds or economic resources are:

- a) “necessary for the termination by 22 August 2023 of operations, contracts, or other agreements, including correspondent banking relations,” concluded with Sberbank before 21 July 2022;
- b) “necessary for the completion, by 31 October 2022, of an ongoing sale and transfer of proprietary rights directly or indirectly owned by [Sberbank] in a legal person, entity or body established in the [EU]”; or
- c) “necessary for the purchase, import or transport of agricultural and food products, including wheat and fertilisers”.

Food Security

The EU Member States’ national competent authorities’ ability to authorise Sberbank-related derogations in respect of agricultural and food products is also extended to certain other major Russian banks sanctioned by the EU. This reflects a concern expressed in the EU’s [accompanying explanatory materials](#) that “Russia’s disinformation” is blaming EU sanctions for “growing food and nutrition insecurity”.

The latest EU package accordingly contains several other amendments relating to food and agricultural security. For instance, [Council Regulation \(EU\) No. 833/2014 \(as amended\)](#) (Regulation 833) prohibits direct or indirect transactions with a number of specified entities, except in certain circumstances. Via [Council Implementing Regulation 2022/1269](#), these circumstances have been extended to include “transactions which are necessary for the purchase, import or transport of pharmaceutical, medical, agricultural and food products, including wheat and fertilisers whose import, purchase and transport is allowed under [Regulation 833]”.

Additional Export Prohibitions

[Council Implementing Regulation 2022/1269](#) also expands the EU export restrictions contained in [Regulation 833](#). A European Commission [guidance document](#) explains that these expansions include roughly “50 additional items”, including helmets, batons, and chemicals used in riot control. The document also explains that the list of restricted “advance technologies” has been updated to include “a limited number of vaccines”. The European Commission states that this update only refers to vaccines with dual-use capabilities that “could be associated to the development of biological weapons”.

Ban on the Import of Russian Gold

The latest EU measures also implement a ban on the import of Russian gold. This is similar to the prohibitions already enacted by the US and the UK (described in our Client Alerts dated [4 July 2022](#) and [22 July 2022](#), respectively).

[Council Implementing Regulation 2022/1269](#) inserts a new Article 3o into [Regulation 833](#). This makes it prohibited to:

- “purchase, import, or transfer, directly or indirectly, gold, as listed in Annex XXVI if it originates in Russia and it has been exported from Russia into the [EU] or to any third country after 22 July 2022”;
- “purchase, import, or transfer, directly or indirectly the products listed in Annex XXVI when processed in a third country incorporating the products prohibited [above]”; and
- “purchase, import, or transfer, directly or indirectly, gold, as listed in Annex XXVII if it originates in Russia and it has been exported from Russia into the Union after 22 July 2022”.

Annex XXVI contains the commodity codes and descriptors for gold in various forms, including gold coins. Annex XXVII contains the commodity codes and descriptors for jewellery and goldsmiths’ or silversmiths’ items containing gold. Regulation 833 now contains an exception for natural persons travelling to the EU when they are making personal use of Annex XXVII items that they already own and do not intend to sell.

The EU measures also prohibit the provision of technical assistance, brokering services, financing, and financial assistance related to these import prohibitions.

Tightening Anti-Circumvention Measures

[EU Council Decision \(CFSP\) 2022/1271](#) indicates that several measures in the latest EU package are intended to “close loopholes and target actual and possible circumvention of the restrictive measures already adopted”.

A Q&A [document](#) by the European Commission explains that these steps include preventing Russian boats that are already prohibited from using EU ports from also using EU canal locks. In another anti-circumvention measure, Article 5b of Regulation 833 (which prohibits EU credit institutions from accepting deposits of more than €100,000 from any Russian national or Russian legal entity) has been amended to capture “a legal person, entity or body established outside the Union and whose proprietary rights are directly or indirectly owned for more than 50% by Russian nationals or natural persons residing in Russia”.

New Anti-Circumvention Reporting Obligations

The standard anti-circumvention wording at Article 9 of Regulation 269 has been significantly expanded to include new reporting obligations.

In light of these amendments, persons designated in Regulation 269's list of asset-freeze targets must report to the competent authority of any relevant EU Member State what funds or economic resources "belonging to, owned, held or controlled by them" are within that Member State's jurisdiction. The designated persons must also "cooperate with the competent authority in any verification of such information". Subject to a minor exception, designated persons must make their report "before 1 September 2022 or within 6 weeks from the date of listing in Annex I, whichever is latest".

The amended Article 9 of Regulation 269 stipulates that "failure to comply" with the above "shall be considered as participation [...] in activities the object or effect of which is to circumvent" sanctions.

Similarly, Article 8 of Regulation 269 has been expanded with consequences that affect all natural and legal persons, entities, and bodies under the jurisdiction of EU regulations. Such persons had already been required to supply to national competent authorities "any information which would facilitate compliance [...] such as information on accounts and amounts frozen" in respect of designated persons under the asset-freeze sanctions. The amendments to Article 8 expand this further, as follows:

- Regulation 269 now requires persons to provide information about designated persons' funds and economic resources "within [EU] territory [...] which have not been treated as frozen".
- There is now an explicit obligation to "cooperate with the competent authority in any verification of such information".

The amended obligations in Article 8 of Regulation 269 are stated to be required "[n]otwithstanding the applicable rules concerning reporting, confidentiality and professional secrecy".

What's Next?

Latham & Watkins is tracking developments across all regions closely and expects that the US, the EU, the 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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