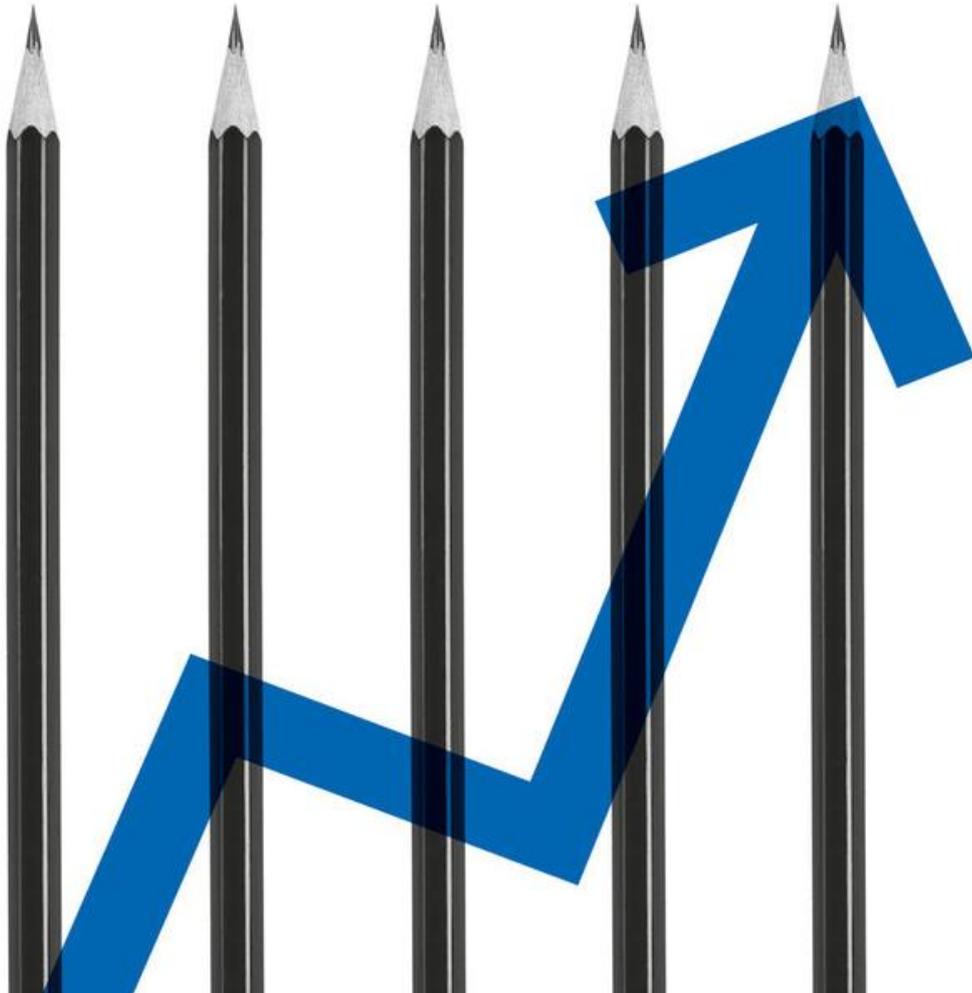


Keeping you up to speed

Expansion of sanctions against Russia

23 February 2022



Introduction

On 21 and 22 February 2022, the UK, EU and US substantially increased trade and economic sanctions against Russia. This action follows (i) the announcement by President Putin (on 21 February 2022) that Russia recognises the independence of the separatist-held regions of the so-called DPR People's Republic ("DPR") and LPR People's Republic ("LPR") (collectively the "Donbas region"). Though these regions have been self-proclaimed republics since 2014 they are, in accordance with international law, part of Ukraine; (ii) Russia's confirmation on 22 February 2022 that its recognition of the DPR and LPR extends to those parts of the regions which remain held by the Ukrainian government and (iii) confirmation by President Putin on 22 February 2022 that Russian troops will be sent to DPR and LPR.

The imposition of these restrictive measures has significant impact on business in the Donbas region, dealings with sanctioned banks or sanctioned persons, dealings in Russian sovereign debt, and the NordStream2 pipeline (among others). Further, the UK, EU and US have been clear that the sanctions which have been announced are the first in a series of measures which will be imposed in respect of Russia if the situation is not de-escalated.

A summary of the new sanctions imposed by each of the UK, EU and US is set out within this briefing.

As a result of the new sanctions:

- Companies and financial institutions which have dealings or transactions between the UK, EU and US and Russia, or in the Donbas region, should (if they have not already done so) undertake an internal assessment to identify any exposure to the new sanctions (and indeed any Russian counter-sanctions (existing or that may be implemented in the future)).
- Where any exposure is identified, companies and financial institutions should review relevant contractual terms in respect of, for example, force majeure, governing law, trade compliance and/or termination clauses. In particular, where contracts are governed by Russian law, care should be taken to review the position in light of any conflict between the regulatory obligations on EU/UK/US entities/nexus transactions versus prohibitions on compliance with such obligations under Russian law. Compliance programmes may also need to be updated
- By way of reminder to those operating in the regulated sector, there are clear regulatory expectations that firms' sanctions compliance frameworks should be able to adapt swiftly and effectively to any new Russia-related sanctions. In particular, firms will need to consider their data sources, automated screening systems, due diligence processes required to understand ownership and control structures, and the ability to switch off payments or in-train transactions without delay.
- We anticipate that companies and financial institutions will need to undertake further ownership and control due diligence as a result of the designations today in order to determine the scope of exposure to entities which are owned or controlled (as applicable) by those targeted by the sanctions. While under the US rules, sanctions extend to entities that are, directly or indirectly, **owned** 50% or more by blocked persons, under UK and EU legislation, such restrictions also extend to entities that are directly or indirectly **controlled** by designated persons.



United Kingdom

On 10 February 2022, the UK Government published the **Russia (Sanctions) (EU Exit) (Amendment) Regulations 2022** which widened the scope of the UK Government's powers to designate individuals and entities in a wide range of economic and strategically significant sectors.

Read our [previous briefing](#) on the increased scope of UK sanctions.

In response to Russia's actions on 21 February 2022, the UK Government announced on 22 February 2022 that sanctions would be imposed in respect of the following five banks and three ultra-high net worth individuals (together the "**Sanctioned Persons**"):

- Bank Rossiya;
- Black Sea Bank for Development and Reconstruction;
- Joint Stock Company GenBank;
- IS Bank;
- Public Joint Stock Company Promsvyazbank ("**Promsvyazbank**");
- Gennadiy Nikolayevich Timchenko;
- Boris Romanovich Rotenberg; and
- Igor Arkadyevich Rotenberg.

Accordingly, all funds and economic resources belonging to, owned, held or controlled by the Sanctioned Persons are frozen (meaning it is prohibited for UK persons to deal with (among other things), directly or indirectly, such funds or economic resources) and it is also prohibited for UK persons to make funds or economic resources available, directly or indirectly, to or for the benefit of the Sanctioned Persons. Under UK law, such restrictions also apply to entities which are owned more than 50%, or controlled by, the Sanctioned Persons. In addition, the individuals listed are subject to travel ban restrictions.



With the exception of Promsvyazbank, all the other UK targets were designated previously by the US between 2014 and 2018. As indicated below, the US has now taken steps to designate Promsvyazbank, which aligns the designations across the UK and US.

The UK Government has also announced that it is going to sanction those members of the Russian Duma and Federation Council who voted to recognise the independence of the DPR and TPR. In addition, the Foreign Secretary has stated that in the coming weeks, the UK will extend the territorial sanctions imposed on Crimea to non-Ukrainian government territory in the DPR and LPR, such that no UK person will be able to deal with these territories. Furthermore, the UK Government has stated that if Russia does not de-escalate, the UK will introduce legislation which will prevent Russia from issuing sovereign debt on UK markets. Measures such as these, would create alignment with the action taken by the US and EU.



European Union

On 22 February 2022, all 27 EU Member States voted unanimously on a new package of sanctions which includes the following:

- asset freezes and travel bans on the 351 members of Russia's Duma which voted in favour of Russia's recognition of the DPR and LPR;
- asset freezes and travel bans on a further 27 individuals and entities from the political, military, business and media sectors, who at the time of publication, are unnamed;
- limits on the Russian Government's access to the EU's capital and financial services markets;
- blocks on the refinancing of Russian sovereign debt; and
- trade restrictions between EU countries and the Donbas region.

We anticipate that further information will be published imminently by the EU, including the details of the specific targets.

Similar to the UK, all funds and economic resources belonging to, owned, held or controlled by designated individuals/entities are frozen (meaning it is prohibited for EU persons to deal with (among other things), directly or indirectly, such funds or economic resources); and it is also prohibited for EU persons to make funds or economic resources available, directly or indirectly, to or for the benefit of the designated individuals/entities. Again, under EU law such restrictions also apply to entities which are owned (more than 50%) or controlled by designated individuals/entities.

In addition, Germany announced on 22 February 2022 that approvals concerning the new Russia to Germany gas pipeline, NordStream2, have been suspended unless and until the operator is organised under German law. The pipeline is not currently in use despite the fact that construction has been finished.

Separately, on 21 February 2022, expressly unconnected to the actions in respect of the Donbas region, the Commission designated an additional five individuals under the European Union's existing Russia/Ukraine sanctions regime (Regulation (EU) 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine) for actively supporting actions and implementing policies that undermine or threaten the territorial integrity, sovereignty and independence of Ukraine. The designated individuals are as follows:

- Aleksei Yurievich CHERNIAK;
- Leonid Ivanovich BABASHOV;
- Tatiana Georgievna LOBACH;
- Nina Sergeevna FAUSTOVA; and
- Aleksandr Evgenevich CHMYHALOV.



United States

On February 21, 2022, the US issued an [Executive Order](#) (“**EO**”) “*Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to Continued Russian Efforts to Undermine the Sovereignty and Territorial Integrity of Ukraine*”.

The EO prohibits:

- new investment by a US person in the DPR and LPR or other such regions which may be determined by the Secretary of the Treasury, in consultation with the Secretary of State (the “**Covered Regions**”);
- importation (directly or indirectly) into the US of any goods, services or technology from the Covered Regions;
- the (re)exportation, sale or supply from the US or by a US person (directly or indirectly) of any goods, services or technology to the Covered Regions; and
- any approval, financing, facilitation or guarantee by a US person of a transaction by a foreign person where that transaction would be prohibited if performed by a US person.

In addition, the EO authorizes blocking restrictions to be imposed against any person or entity that is deemed to:

- (i) operate, or who has operated since the date of the EO, in the Covered Regions;
- (ii) be a leader, official, senior executive or a member of the board of directors of any entity operating in the Covered Regions, since the date of the EO;
- (iii) be owned or controlled by, or who has acted or who has purported to act on behalf of, any person who is subject to blocking restrictions pursuant to the EO; and
- (iv) have materially assisted, sponsored or provided financial, material or technological support for, or goods or services to, any person subject to blocking restrictions.

Along with the EO, the Office of Foreign Assets Control (“**OFAC**”) of the US Department of the Treasury issued six new general licenses:

- **General License 17** – authorizes transactions ordinarily incident and necessary to the winding down of transactions involving the Donbas region, including the divestiture or transfer to a non-US person of any US ownership in any pre- February 21, 2022 investment. The wind-down period will end at 12:01 (EST) on March 23, 2022;



- **General License 18** – authorizes the (re)exportation of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices and software updates for medical devices to the Donbas region or to persons in third countries purchasing for resale to, the Covered Regions. The General License also authorises transactions ordinarily incident and necessary to the prevention, diagnosis or treatment of COVID-19;
- **General License 19** – authorizes transactions ordinarily incident and necessary to the receipt or transmission of telecommunications;
- **General License 20** – authorizes transactions that are for the conduct of official business of certain international entities (including the United Nations);
- **General License 21** – authorizes transactions that are ordinarily incident and necessary to the transfer of non-commercial, personal remittances to or from the Covered Region (not including charitable donations); and
- **General License 22** – authorizes all transactions that are ordinarily incident and necessary to the (re)exportation (directly or indirectly) from the US or by a US person to the Covered Regions of services incident to the “exchange of personal communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing and blogging.”

Subsequently, on February 22, 2022 OFAC issued further sanctions on Russia, specifically:

- the designation on the US Specially Designated Nationals and Blocked Persons (“**SDN**”) List of multiple individuals/entities connected with Russia, including , the State Corporation Bank for Development and Foreign Economic Affairs Vnesheconombank (“**VEB**”) and Promsvyazbank, along with 42 of their subsidiaries:
 - sanctioned subsidiaries of these banks represent a range of businesses, including banks and investment firms, electronic component producers, a coal mining company and a sporting company, among others, in Russia and three other countries;
- the SDN designation of five Russian connected vessels connected to Prosvyazbank; and
- the imposition of further restrictions on Russian sovereign debt via Directive 1A issued pursuant to EO 14024 (“*Blocking Property with Respect to Specified Harmful Foreign Activities of the Government of the Russian Federation*”).

[Directive 1A](#) (which replaces the existing Directive 1 under EO 14024) prohibits US financial institutions from engaging in the following activities in respect of the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation and the Ministry of Finance of the Russia Federation (each of which has been determined by the US to be “subdivisions, agencies or instrumentalities of the Government of the Russian Federation”):



- participation in the primary market for Ruble or non-Ruble denominated bonds issued after June 14, 2021;
- as of June 14, 2021, lending Ruble or non-Ruble denominated funds; and
- participation in the secondary market for Ruble or non-Ruble denominated bonds issued after March 1, 2022.

In other words, Directive 1A expands Directive 1 to apply sanctions also to the secondary market for Russian sovereign debt issued after March 1, 2022.

Alongside the SDN designations made by the US and the issuance of Directive 1A, OFAC also issued two general licenses:

- **General License 2** – authorizes transactions involving VEB (or any entity which VEB owns 50% or more, directly or indirectly) that are ordinarily incident and necessary to the servicing of bonds issued before March 1, 2022 by the Central Bank, National Wealth Fund and Ministry of Finance of the Russian Federation which are targeted by Directive 1A; and
- **General License 3** – authorizes all transactions that are ordinarily incident and necessary to the wind-down of transactions involving VEB (or any entity which VEB owns 50% or more, directly or indirectly). The wind-down period ends at 12:10am on March 24, 2022.

This of course remains a fluid situation and it is important to note that jurisdictions in addition to those focused on within this briefing will similarly be reacting.

Contacts

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