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# Hughes Hubbard & Reed

## EU Adopts Ninth Package of Sanctions Against Russia in Response to its Attacks Against Civilians and Civil Infrastructures

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**December 21, 2022** - On December 16, 2022, the European Union ("EU") adopted a ninth package of restrictive measures (sanctions) against the Russian Federation ("Russia") in response to its attacks "targeting civilians and civilian infrastructure, seeking to paralyse the country at the beginning of the winter." This new package comes in addition to the EU import ban on Russian seaborne crude oil and of the oil price cap agreed with G7 partners and Australia, which apply as of December 5, 2022. The new sanctions include a series of measures intended to step up pressure on Russia and its government, and hit hard the Russian economy and abilities to continue its aggression.

The new measures were imposed through three Council Decision and three Council Regulations.

### **1. Individual restrictive measures**

#### **New designations**

On December 16, 2022, the EU added 141 individuals and 49 entities to its restricted parties list through Council Implementing Regulation 2022/2476. The newly-listed individuals include, among others, members of the Russian armed forces, members of the State Duma and the Russian Federation Council, ministers, governors, and those deemed responsible for missile strikes against civilians, civilian critical infrastructure and the kidnappings and subsequent illegal adoptions of Ukrainian children. Newly-designated entities include two banks (Credit Bank of Moscow and JSC Dalnevostochniy Bank), as well as several defense and industrial companies, political parties, media holdings, and paramilitary groups.

On October 20, 2022 and on December 12, 2022, the EU had separately added seven individuals and five entities to its restricted parties list through Council Implementing Regulation 2022/1985 and Council Implementing Regulation

2022/2430 in view of Iran's military cooperation with Russia and their role in the development and delivery of drones used by Russia in its war against Ukraine.

In total, as of today, 1386 individuals and 171 entities have been placed on the EU restricted parties list under the Russian program in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

Newly-designated individuals and entities are subject to an asset freeze and a prohibition from making funds and economic resources available to them, as well as, for individuals, a travel ban in the EU as of the date on which they were respectively added to the EU's restricted parties list.

### **Extension of existing deadlines for derogations**

Pursuant to Council Regulation 2022/2475, the deadlines for the use of certain derogations relating to divestments have been extended:

- Authorizations can now be granted for the completion of ongoing sales and transfers of proprietary rights in EU entities owned by Sberbank by June 17, 2023 (instead of October 31, 2022). The extended deadline does not apply retroactively and thus does not cover divestments that took place between November 1, 2022, and December 16, 2022.
- Authorizations can now be granted for the sale and transfer of proprietary rights owned by asset freeze targets in EU entities by February 28, 2023 (instead of December 31, 2022) or six months from their listing, whichever is later.

### **New derogations**

Pursuant to Council Regulation 2022/2475, the relevant enforcement authorities of the competent Member State ("National Competent Authorities") may authorize the release of certain frozen funds or economic resources of, or the making available of certain funds or economic resources to:

- **Credit Bank of Moscow and JSC Dalnevostochniy Bank** for:
  - The termination by June 17, 2023 of operations, contracts or other agreements concluded with those banks before December 16, 2022; and
  - Transactions of those banks that are necessary for the purchase, import or transport of agricultural and food products (including wheat and fertilizers).
- **Natural persons listed in Annex I who held a significant role in international trade in agricultural and food products (including wheat and fertilizers) prior to their listing**, provided such funds or resources are necessary for the sale, supply, transfer or export of agricultural and food products to third countries in order to address food security.
  - Note that these authorizations must be granted *"based on a specific and case-by-case assessment, (...) for each relevant transaction separately"*.
  - Derogations relating to food security are subject to specific reporting and information-sharing requirements.

## **2. State-owned entities**

Council Regulation 2022/2474 added one entity to the list of State-owned entities subject to a transaction ban, introduced and amended exemptions and derogations to this transaction ban and introduced a new prohibition on holding posts in the governing bodies of non-listed State-owned or State-related entities.

### **Sanctions targeting the Russian Regional Development Bank and its affiliates**

The Russian Regional Development Bank has been added to Annex XIX of Regulation 833/2014 (Part C). As a result, it is now prohibited to directly or indirectly engage in any transaction with (i) the Russian Regional Development Bank, (ii) any entity established outside the EU and more than 50% owned by the Russian Regional Development Bank, and (iii) entities acting on their behalf or at their direction.

### **Exemptions**

New exemptions allow:

- The performance until March 18, 2023, of contracts concluded with the Russian Regional Development Bank before December 17, 2022.
- The reception of payments due from the Russian Regional Development Bank pursuant to contracts performed before March 18, 2023.

The wind-down period for joint ventures involving entities listed in Annex XIX of Regulation 833/2014 has been extended:

- Transactions related to the winding down of joint ventures or similar legal arrangements concluded before March 16, 2022, and involving an entity listed in Annex XIX or its covered affiliates can now be carried out until June 30, 2023 (instead of December 31, 2022).

### **Derogations**

A derogation has been introduced to authorize certain divestments and withdrawal from EU entities by entities listed in Annex XIX of Regulation 833/2014:

- National Competent Authorities may now authorize transactions necessary for the divestment and completed withdrawal by June 30, 2023, of the entities listed in Annex XIX or their EU subsidiaries from an entity established in the EU.

### **Prohibition on holding posts in governing bodies**

It will be prohibited as from January 16, 2023, to hold any posts in the governing bodies of (i) an entity established in Russia, which is publicly controlled or with over 50% public ownership, or in which Russia, its Government or Central Bank has the right to participate in profits or with which the latter has other substantial economic relationship, (ii) any entity established in Russia more than 50% owned by the aforementioned entities, and (iii) entities acting on behalf or at the direction of the aforementioned entities.

Derogations however empower National Competent Authorities to authorize the holding of such posts for:

- Joint ventures or similar legal arrangements concluded by an EU entity before December 17, 2022 and involving the above-mentioned entities.
- The above-mentioned entities established in Russia before December 17, 2022, which are owned or controlled by an EU entity;
- The holding of posts in the governing bodies of the above-mentioned entities necessary for ensuring critical energy supply;
- The holding of posts in the governing bodies of the above-mentioned entities involved in the transit through Russia of oil originating in a third country provided the holding of such post is not intended for operations prohibited under sanctions targeting crude oil and petroleum products (articles 3m and 3n of Regulation 833/2014).

## **3. Investments sanctions**

## **Mining and quarrying sector**

Council Regulation 2022/2474 extended the existing prohibitions targeting Russia's energy sector (covered in a [previous alert](#)) to its mining and quarrying sector, defined as covering the location, extraction, management and processing activities relating to energy and non-energy producing materials.

- **Prohibitions** – It is now prohibited (i) to acquire any new or extend any existing participation in, (ii) to grant or be part of any arrangement to grant any new loan or credit or otherwise provide financing to or (iii) to create any new joint venture with any non-EU entity operating in the mining or quarrying sector in Russia, or (iv) to provide investment services related to these activities.
- **Exemption** – The above-mentioned prohibitions are not applicable to mining and quarrying activities that yield their highest value from, or have as their primary objective, the production of any of the critical raw materials listed in Annex XXX of Regulation 833/2014.
  - Those exempted materials are aluminum (including bauxite), chromium, cobalt, copper, iron ore, mineral fertilizers (including potash and phosphate rock), molybdenum, nickel, palladium, rhodium, scandium, titanium, vanadium, heavy rare earths (dysprosium, erbium, europium, gadolinium, holmium, lutetium, terbium, thulium, ytterbium, yttrium) and light rare earths (cerium, lanthanum, neodymium, praseodymium and samarium).

## **4. Trade sanctions**

Council Regulation 2022/2474 makes significant amendments to the list of items subject to import- or export-related restrictions, while also providing for new exemptions and/or derogations. In particular, a new derogation allows for EU entities to wind down or close their operations in Russia, while ensuring compliance with applicable trade controls.

### **Oil and petroleum products (import-related sanctions)**

As noted in a [previous alert](#), on June 3, 2022, the EU introduced a comprehensive import ban on Russian seaborne crude oil (CN 2709 00) and petroleum products (CN 2710), subject to certain transition periods and temporary exemptions and derogations. The ban targeting Russian crude oil (CN 2709 00) fully entered into force on December 5, 2022, along with the [price cap](#) mechanism on Russian crude oil.

Council Regulation 2022/2474 narrowed the scope of crude oil products subject to these restrictions and introduced new derogations, primarily to ensure the supply to Ukraine of petroleum products obtained from Russian crude oil in Bulgaria, Slovakia or Hungary after February 5, 2023.

- **Removal of certain natural gas condensates from the scope of prohibitions, replaced by reporting obligations** – Annex XXV of Regulation 833/2014 has been amended to exclude “natural gas condensates of subheading CN 2709 00 10 from liquefied natural gas production plants” from the scope of controls under articles 3m and 3n of Regulation 833/2014.
  - Previous prohibitions are replaced by reporting obligations on operators, who must inform within two weeks National Competent Authorities of all transactions related to the purchase, import or transfer into the EU and third countries of natural gas condensates of CN 2709 00 10 from liquefied natural gas production plants, originating in or exported from Russia.
    - Note that the functioning of this measure will be reviewed by the European Commission by no later than June 18, 2023.
- **New derogation for Bulgaria for the sale, supply, transfer and export of certain petroleum products obtained from Russian crude oil** – As of December 5, 2022, the National Competent Authority of Bulgaria may authorize the performance until December 31, 2024 of contracts concluded before June 4, 2022 for the purchase, import or transfer of Russian seaborne crude oil and of petroleum products listed in Annex XXV of Regulation 833/2014. The goods imported following such derogations must not be sold on to buyers located in other Member States or third countries.

- As of February 5, 2023, it will also be prohibited to transfer, transport and sell petroleum products obtained from crude oil imported on the basis of a derogation granted by the National Competent Authority of Bulgaria to other Member States, third countries, or purchasers in other Member States or third countries.
- By way of derogation, the National Competent Authority of Bulgaria will be able to authorize the sale, supply, transfer and export:
  - To Ukraine, of certain petroleum products listed in the new Annex XXXI of Regulation 833/2014 obtained from Russian crude oil imported under the above-mentioned derogation, provided (i) the products are intended for exclusive use in Ukraine, and (ii) the sale, supply, transfer or export is not meant to circumvent the EU ban on Russian seaborne crude oil and petroleum products.
  - To third countries, of petroleum products listed in Annex XXXII of Regulation 833/2014 obtained from Russian crude oil imported under the above-mentioned derogation, within the export volume quotas mentioned in that Annex, where (i) those products cannot be stored in Bulgaria due to environmental and safety risks, and (ii) the sale, supply, transfer or export is not meant to circumvent the EU ban on Russian seaborne crude oil and petroleum products.
- **New derogation for Hungary and Slovakia for the sale, supply, transfer and export of certain petroleum products obtained from Russian crude oil to Ukraine** – Similarly, National Competent Authorities of Hungary and Slovakia will be able to authorize, as of February 5, 2023, the sale, supply, transfer and export of certain petroleum products listed in Annex XXXI of Regulation 833/2014 obtained from Russian crude oil delivered by pipeline, to Ukraine provided (i) the products are intended for exclusive use in Ukraine, and (ii) the sale, supply, transfer or export is not meant to circumvent the EU ban on Russian seaborne crude oil and petroleum products.

#### **Goods which generate significant revenues for Russia (import-related sanctions)**

- **Extension of prior contract exemption for methanol** - As we explain in a [previous alert](#), it is prohibited to purchase, import, or transfer, and provide certain services related to items which generate significant revenues for Russia as listed in Annex XXI.
  - These prohibitions notably do not apply to goods falling under CN 2905 11 (methanol) for the performance until June 18, 2023 (instead of January 8, 2023) of contracts concluded before October 7, 2022 or of ancillary contracts.

#### **Iron and steel products (import-related sanctions)**

- **Extension of the list of iron and steel products to include CN 7224 90(Annex XVII)** –Part B of the list of iron and steel products in Annex XVII to Regulation 833/2014 has been slightly extended through the specification that items falling under CN 7224 (steel, alloy, other than stainless, in ingots or other primary forms, semi-finished products of alloy steel other than stainless) now include waste and scrap in ingot form, and products obtained by continuous casting (previously excluded).
  - The prohibition to import and purchase products listed in Annex XVII processed in a third country incorporating steel products originating in Russia falling under CN 7224 90 will apply as of October 1, 2024.
  - The import, purchase, transport, and related technical or financial assistance, of the goods falling under CN 7224 90 are authorized for the following quantities:
    - 147 007 metric tons between December 17, 2022, and December 31, 2023;
    - 110 255 metric tons between January 1, 2024, and September 30, 2024.

#### **Aviation and Space Sector (export-related restrictions)**

- **Extension of the list of goods and technology suited for use in aviation or the space industry(Annex XI of Regulation 833/2014)** – The list of goods and technology suited for use in aviation or the space industry in Annex XI of Regulation 833/2014 has been broadened with a new Part C targeting the following items:
  - CN 840710: spark-ignition reciprocating or rotary internal combustion piston engine, for aircraft;

- CN 840910: parts suitable for use solely or principally with internal combustion piston engine for aircraft, not elsewhere specified.
- **New exemption for items listed in Part C of Annex XI of Regulation 833/2014** – For items listed in Part C, an exemption applies until January 16, 2023, for “prior contracts” concluded before December 17, 2022.
- **New derogation to the prohibition to provide technical assistance related to the goods and technology listed in Annexes XI and XX of Regulation 833/2014** – For all items covered by Annexes XI (aviation and space industry) and XX (jet fuel and fuel additives) of Regulation 833/2014, National Competent Authorities can authorize the provision of technical assistance necessary for avoiding collision between satellites or their unintended re-entry into the atmosphere.
- **New general derogation for some of the items listed in Part B of Annex XI** – For certain items covered in Part B of Annex XI, National Competent Authorities can authorize their sale, supply, transfer, export or related technical assistance, brokering services, financing or financial assistance, if necessary for medical, pharmaceutical or humanitarian purposes, and except if the National Competent Authority has reasonable grounds to believe that the goods might have a military end-use. The items covered by this derogation are:
  - CN 8517 71 00: Aerials and aerial reflectors of all kinds; parts suitable for use therewith;
  - CN 8517 79 00: Other parts related to aerials;
  - CN 9026 00 00: instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases, e.g. flow meters, level gauges, manometers, heat meters (excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032).

### **Goods which contribute to the enhancement of Russian industrial capacities (export-related restrictions)**

- **Addition of new items to Annex XXIII of Regulation 833/2014** – As a reminder, it is prohibited to sell, supply, transfer or export, and to provide certain services related to goods which could contribute in particular to the enhancement of Russian industrial capacities as listed in Annex XXIII of Regulation 833/2014, to any natural or legal person, entity or body or for use in Russia.
  - [Council Regulation 2022/2474](#) creates a new Part B in Annex XXIII targeting items such as toy/hobby drones, complex generator devices, laptop computers and IT components, printed circuits, radio navigational systems, radio remote control apparatus, cameras and lenses, which are now covered by the above-mentioned prohibitions.
  - However, these prohibitions are not applicable to the performance until January 16, 2023, of contracts concluded before December 17, 2022 regarding items listed in Part B.
- **New derogation for CNs 8417 20, 8419 81 80 and 8438 10 10** – National Competent Authorities can now grant authorizations for the sale, supply, transfer, export, and provision of related technical or financial assistance, with regard to the goods falling under CN codes 8417 20, 8419 81 80 and 8438 10 10, where necessary for personal household use of natural persons, except if the goods might have a military end-use.
  - Note that the references to CNs 8419 81 80 and 8438 10 10 are likely typos, as these CNs are not covered by Annex XXIII of Regulation 833/2014.

### **Defense sector (export-related restrictions)**

- **Extension of list of goods and technology that contribute to Russia’s military and technological enhancement (“advanced technology items”)** – The list of advanced technology items of Annex VII of Regulation 833/2014 has been broadened to include, notably, certain aircraft engines (including drone engines), key chemicals, nerve agents, camouflage gear, additional chemical/biological equipment, riot control agents and additional electronic components.
- **Reinforced trade controls for dual-use and advanced technology items** – The list of individuals and entities subject to enhanced export-related restrictions in relation to dual-use items and advanced technology items has been amended with the addition of 168 entities to Annex IV of Regulation 833/2014, including notably military end-users working in aeronautics, research centers, naval/marine, weapons manufacturing, information, and

communication. To avoid circumvention, certain Russian-controlled entities based in Crimea and Sevastopol are also included. To date, 410 entities are listed in Annex IV.

### **New derogations for the winding down of activities in Russia (import and export-related restrictions)**

- **Export-related derogations** – National Competent Authorities can now authorize the sale, supply, or transfer of goods and technologies listed in Annexes II (exploration or production), VII (advanced technology), X (oil refining and liquefaction of natural gas), XI (aviation & space), XVI (maritime), XVIII (luxury goods), XX (jet fuels and additives) and XXIII (industrial capacities) of Regulation 833/2014, as well as in Annex I to Regulation 2021/821 (dual-use), until September 30, 2023, where necessary for the divestment from Russia or the wind-down of business activities in Russia, provided the goods and technologies:
  - Are owned by EU nationals or entities, or Russian entities owned or controlled by EU entities;
  - Are not intended for a military end-user or end-use in Russia; and
  - Were physically located in Russia before the relevant prohibitions entered into force.

Note that regarding derogations granted for goods and technologies listed in Annex VII to Regulation 833/2014 and Annex I to Regulation 2021/821, they should follow the new template provided in Annex IX of Regulation 833/2014.

- **Import-related derogations** – Similarly, National Competent Authorities can now authorize the import or transfer of goods listed in Annexes XVII (iron & steel) and XXI (revenue generating) of Regulation 833/2014 until September 30, 2023, where necessary for the divestment from Russia or the wind-down of business activities in Russia, provided the goods:
  - Are owned by EU nationals or entities, or Russian entities owned or controlled by EU entities; and
  - Were physically located in Russia before the relevant prohibitions entered into force.

## **5. Transport**

Council Regulation 2022/2474 clarifies that National Competent Authorities should also inform other National Competent Authorities and the European Commission of any authorization granted under paragraph 5b of article 3ea (derogation from the prohibition on access to EU ports and locks for certain vessels that have changed their flags) within two weeks of the authorization, as was already the case for authorizations granted under paragraphs 5 and 5a.

## **6. Financial sector**

- **New prohibition to admit to trading Russian state-owned trading venues** – As of January 29, 2023, it will be prohibited to admit to trading transferable securities of any legal person, entity or body established in Russia and with over 50 % public ownership on EU trading venues.
- **New reporting requirements for credit institutions** – Credit institution must now supply to their National Competent Authority or to the European Commission by no later than May 27, 2023, a list of deposits exceeding 100 000 EUR held by legal persons, entities and bodies established outside the EU and more than 50% owned by Russian nationals and residents (thereby aligning with reporting obligations applicable to other persons subject to deposit restrictions). Updates regarding the amounts of such deposits must be provided every 12 months.

## **7. Services restrictions**

- **Prohibitions** – It is now prohibited to provide market research and public opinion polling services, technical testing and analysis and advertising services to the Government of Russia or Russian entities.
  - “Market research and public opinion polling services” covers market research services and public opinion polling services.
  - “Technical testing and analysis services” covers composition and purity testing and analysis services, testing and analysis services of physical properties, testing and analysis services of integrated mechanical and electrical

systems, technical inspection services, as well as other technical testing and analysis services. The provision of technical assistance related to goods exported to Russia remains allowed, provided that the sale, supply, transfer or export of such goods is not prohibited under Regulation 833/2014 at the time at which such technical assistance is provided.

- “Advertising services” covers the sale or leasing services of advertising space or time and the planning, creating and placement services of advertising, as well as other advertising services.
- **Exemptions** – The prohibitions mentioned above do not apply for the provision of services:
  - Strictly necessary for the termination by January 16, 2023, of contracts concluded before December 17, 2022;
  - Intended for the exclusive use of Russian entities owned or controlled by entities established in the EU, the European Economic Area, Switzerland or partner countries listed in Annex VIII of Regulation 833/2014 (i.e., the US, Japan, the UK and South Korea);
  - Necessary for public health emergencies, the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health and safety or the environment, or as a response to natural disasters.
- **Derogations** – National Competent Authorities can authorize the provision of the aforementioned services for:
  - Humanitarian purposes;
  - Civil society activities that directly promote democracy, human rights or the rule of law in Russia;
  - The functioning of diplomatic and consular representations of the EU, Member States or partner countries in Russia;
  - Ensuring critical energy supply within the EU and the purchase, import or transport into the EU of titanium, aluminum, copper, nickel, palladium and iron ore;
  - Ensuring the continuous operation of infrastructures, hardware and software which are critical for human health and safety, or the safety of the environment;
  - The establishment, operation, maintenance, fuel supply, retreatment and safety of civil nuclear capabilities, and the continuation of design, construction and commissioning required for the completion of civil nuclear facilities, the supply of precursor material for the production of medical radioisotopes and similar medical applications, or critical technology for environmental radiation monitoring, as well as for civil nuclear cooperation, in particular in the field of research and development; or
  - The provision of electronic communication services by EU telecommunication operators necessary for the operation, maintenance and security (including cybersecurity) of electronic communication services in Russia, in Ukraine, in the EU, between Russia and the EU, between Ukraine and the EU, and for data center services in the EU.

## 8. **Media**

- **Extension of broadcasting ban** – As we explain in a [previous alert](#), it is prohibited for operators to broadcast, to enable, facilitate or otherwise contribute to broadcast any content, and to advertise products or services in any content, by the legal persons, entities or bodies listed in Annex XV of Regulation 833/2014.
  - In order to address Russia’s campaign of disinformation and information manipulation, Council Regulation 2022/2474 added four new channels (i.e.: NTV/NTV Mir, Rossiya 1, REN TV, and Pervyi Kanal) to Annex XV, which are now subject to the above-mentioned prohibitions.

## 9. **EU FAQs**

On December 21, 2022, the European Commission updated the [consolidated version](#) of its FAQs on the implementation of Regulations 833/2014 and 269/2014 on its [dedicated webpage](#).

Furthermore, a brief “questions and answers” memo on the ninth package is available on the European Commission’s [website](#).



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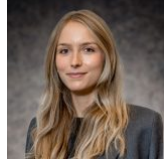
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