ROPES & GRAY

ALERT ▪ Economic Sanctions & Export Control

March 16, 2022

Russia/Ukraine Crisis: The Latest UK/EU Sanctions Response

Attorneys
Amanda N. Raad
Ama A. Adams
Sean Seelinger
Paige Berges
Sarah Lambert-Porter

The United Kingdom and the European Union have continued to announce and implement new sanctions measures, accompanied by corresponding general licenses and updates to relevant guidance. This alert summarizes the key further actions taken in the United Kingdom and the European Union since our alert dated March 3, published here. For the latest update on key further actions in the US, see our alert here.

United Kingdom

The United Kingdom has added additional names to its list of blocked persons, and released new general licenses and several updates to previously issued general licenses. The United Kingdom has also made significant updates to its guidance documents. The newly issued guidance and general license updates may be a direct result of feedback and questions from industry and parties subject to UK sanctions.

Designations

On March 10, the United Kingdom added seven (7) high profile individuals to the list, including Roman Abramovich. Alongside this, OFSI issued a general license to permit certain activities related to Chelsea Football Club. These are further detailed in OFSI's blog entry. On March 11, the United Kingdom added 386 individuals to the designated list, including members of the Russian Duma.

On March 15, the United Kingdom announced that 370 further Russian and Belarusian names were due to be added to the designated list, which means that the UK government has sanctioned more than 1,000 individuals and entities since Russia invaded Ukraine. The additions include further oligarchs and political elites (Mikhail Fridman (co-founder of Alfa Group), Petr Aven (former head of Alfa-Bank), and German Khan (a major Alfa Group shareholder), as well as 'propagandists' including Vladimir Putin's Press Secretary, Dmitry Peskov, and Russian Foreign Affairs spokeswoman, Maria Zakharova, and CEO of Channel One, Konstantin Ernst, among others. The notorious internet 'troll farm', the Internet Research Agency, is also designated.

Trade Restrictions

In terms of trade restrictions, on March 9, the United Kingdom announced new aviation and trade-related restrictions related to Russia, and corrected certain omissions and an error in relation to previous measures on shipping.

a) Aviation sector (and related trade):

- *New measures in relation to 'Russian aircraft'*: These include: (i) blocking the registration of aircraft owned by designated persons within the United Kingdom (including terminating existing registration, and refusing current or future applications for registration); (ii) banning Russian aircraft from overflying or landing in the United Kingdom (i.e., Russian registered aircraft, or aircraft owned, operated or chartered by a designated person or a person connected with Russia); and (iii) empowering the Secretary of State to detain Russian aircraft. These measures extend to ultimate beneficial owners of aircraft, and will have effect against those who hold legal title or a beneficial interest in the aircraft or any share in the aircraft.[1]

- *Extension of existing trade measures on 'Restricted Goods' and 'Restricted Technology'*: These measures now apply to aviation and space-related items, which amounts to a prohibition on the export, supply and delivery, making available and transfer of aviation and space-related items to, or for use in, Russia. This extension includes a corresponding prohibition on the provision of related technical assistance, financial services, funds and brokering services.

- *New insurance and reinsurance ban*: New measures prohibit UK companies from providing insurance and reinsurance services in relation to aviation and space-related goods and technology to a person connected with Russia, or for use in Russia. This means that cover is withdrawn on existing policies and UK insurers and reinsurers will be unable to pay claims in respect of existing policies in these sectors. There are certain exceptions and licensing provisions available in connection with these measures.

- A final point to note in the context of aviation is that on March 9, the United Kingdom also issued a general license in relation to Belarus, to permit flight data providers to make payment(s) directly or via a relevant institution to Belaeronavigatsia (the state-owned provider of air navigation services) for aeronautical information publication data.

b) Financial sector:

Unlike the European Union, to date the United Kingdom has not finalized measures to restrict Russian citizens from using UK banks and/or limits on bank account holdings.[2] On March 1, however, the United Kingdom did introduce a prohibition on dealing in any transferable securities or money market instruments (irrespective of maturity) issued on or after March 1 by a "person connected with Russia." The latter is defined broadly, so that this prohibition covers: (i) companies incorporated or constituted under the law of Russia, (ii) entities owned or controlled by such companies, or (iii) any person acting on behalf of or at the direction of a company falling within (i) or (ii) above, but excludes companies domiciled outside Russia and their branches/subsidiaries.

c) Luxury goods sector:

- On March 15, in coordination with its G7 allies, the United Kingdom announced a ban on exports to Russia of high-end luxury goods, which is expected to cover luxury vehicles, fashion, and art.

- In addition, as part of its move to revoke Russia's 'Most Favoured Nation' status within the World Trade Organization (described further below), the United Kingdom's March 15 announcement also included the introduction of new import tariffs on hundreds of key products not caught by the ban (e.g. vodka, seafood), which will represent a 35 percentage point hike on current rates (and apply in addition to the existing tariffs).

- The ban and tariffs are expected to come into effect in the week commencing March 21.

---

[1] The United Kingdom has not yet indicated that equivalent restrictions will be implemented in relation to Belarus. Since October 2021, the United Kingdom has prohibited the provision of technical assistance to, or for the benefit of, any person designated under its Belarus sanctions regime, where that technical assistance relates to an aircraft.

[2] The UK had previously announced that it would implement such measures, but as of the date of this alert, final regulations have not been released. EU restrictions (on deposits over €100,000 from Russian nationals or residents, and holding accounts of Russian clients by EU central securities depositories) were introduced on February 25, as covered in our alert of March 3, here.

Licenses

On March 4, OFSI issued two General Licenses that will expire on April 3, 2022:

- for the wind-down of positions with **Sberbank**: subject to UK correspondent banking and payable-through-account restrictions, this permits the "provision of financial services to" Sberbank or its subsidiaries for the purpose of wind down.

- for the wind-down of transactions "involving" five (5) designated banks (Bank Otkritie, Promsvyazbank (PSB), Bank Rossiya, Sovcombank and VEB) or Novikombank (which is a subsidiary of the state-owned blocked entity, Rostec).

On March 7, the United Kingdom amended the General License related to the wind-down of positions involving VTB (initially issued February 25) (the "VTB License"). The amendments expanded the definition of 'subsidiary' to encompass any entity owned or controlled by VTB and updated references to relevant legislation. The VTB License was also amended to clarify that any act which would otherwise breach the financial prohibitions in Regulations 11 to 17A of the Russia Regulations is permitted to the extent required to give effect to the permissions in the VTB License (the VTB License previously only specifically referenced Regulation 16 (i.e., in relation to transferable securities or money-market instruments)). The VTB License was amended for again on March 9 to clarify that funds becoming owed or payable to VTB as a necessary part of winding down any transactions with VTB do not have to be paid into a frozen account. With regard to funds becoming payable to any subsidiary of VTB, OFSI suggests parties "consider how the ownership and control provisions in the Russia Regulations could apply to such payment."

On March 10, the United Kingdom amended a license previously issued March 1 to permit the processing of sterling payments and correspondent banking relationships with Sberbank. The amendment clarifies that a UK credit or financial institution may continue its correspondent banking relationship with Sberbank as well as any with any credit or financial institution entities owned or controlled directly or indirectly by Sberbank (including non-UK entities) (previously the general license had only specifically permitted continuation of sterling payment processing with Sberbank subsidiaries).

Finally, it is worth noting that the General License allowing a seven day wind-down period in respect of sovereign debt, loans and money market instruments expired on 8 March 2022.

Guidance

On March 11, the UK Financial Regulatory Authorities (i.e., OFSI, the Financial Conduct Authority, and the Bank of England) issued a joint statement on "Sanctions and the Cryptoasset Sector." The UK National Crime Agency also issued updated glossary codes for Suspicious Activity Reports where they involve entities sanctioned by the United Kingdom, United States, European Union "and other overseas jurisdictions" in connection with the Russian invasion of Ukraine. The glossary codes do not mean that a SAR needs to be filed in every case where a sanctions breach is suspected, but relevant persons should consider their reporting requirements under the Proceeds of Crime Act, and, if applicable, use the appropriate sanctions-related SAR code. Additionally, filing a SAR does not negate any requirements to report sanctions breaches to, or request licensing from, OFSI.

The United Kingdom also updated both the statutory Russia Sanctions Guidance ("Statutory Guidance") and OFSI's guidance on financial sanctions against Russia ("OFSI Guidance"). Both include certain helpful clarifications on different aspects of the sanctions, and provide particularly useful summaries of the specific licensing grounds available under the different sanctions instruments, which are outlined in the table below. See here for further context.

Available under the "securities, loans and credit restrictions"	Available under the "correspondent banking relationships restrictions"
• humanitarian assistance activity, • medical goods and services, • production or distribution of food for the civilian population, and • diplomatic missions.	• basic needs, • legal services, • financial regulation, and • extraordinary situations.
Available under the "processing sterling payments restrictions"	**Available under the "prohibitions relating to foreign exchanges reserve and asset management"**
• humanitarian assistance activity, • medical goods and services, • production or distribution of food for the civilian population, • diplomatic missions, and • space activity.	• humanitarian assistance activity, • financial regulation, • financial stability, • safety and soundness of a firm, and • extraordinary situations

UK sanctions shift to strict liability

The UK parliament remained in session into the early hours of March 15 in order to fast-track the passage of a key piece of legislation, the Economic Crime (Transparency and Enforcement) Act 2022 (the "Act"), which will make a fundamental change to the basis upon which individuals and companies can be held liable for sanctions breaches. Prior to the enactment of this legislation, UK persons were only liable for sanctions breaches if the individual or entity had actual knowledge or reasonable cause to suspect that sanctions had been breached, but the Act replaces this with strict liability and brings the UK more in line with the US, where sanctions violations are enforced by the Office of Foreign Assets Control (OFAC) as strict liability offences. In short, the Act now makes it much easier for OFSI to impose potentially significant fines for sanctions breaches.

The Act also implements other measures designed to make it easier for UK authorities to identify, trace, and either sanction or seize assets or illicit finance flows. To that end, the Act:

- establishes a register of overseas entities and beneficial owners and will require overseas entities that have acquired land in the England and Wales in the past twenty years (or since December 2014 in Scotland) to register and provide information as to their beneficial owners, and

- enhances the authorities' ability to gather intelligence and seize assets through unexplained wealth orders (or 'UWOs') in circumstances where there are reasonable grounds to suspect that politically exposed persons (PEPs) or those with involvement in serious crime hold an assets that appear disproportionate to their known legitimate income.

See our previous alert on the draft of the Act here.

European Union

Further sanctions against Russia, and alignment against Belarus

On March 9, the European Union announced a number of new sectoral measures targeting both Russia and Belarus. The expressed aim of the new measures is to align the sanctions on both countries more closely and thereby to prevent circumvention of the sanctions targeting Russia via Belarus.

In relation to Russia, the new measures included:

- prohibiting the sale, supply, transfer or export, directly or indirectly, maritime navigation goods and technology to any natural or legal person, entity or body in Russia, for use in Russia, or for the placing on board of a Russian-flagged vessel;
- adding the Russian Maritime Register of Shipping to the list of state-owned enterprises subject to financing limitations;
- clarifying (and confirming a common understanding) that the definition of the term "transferable securities" (where used in capital markets "sectoral" sanctions) includes crypto-assets;
- extending the exemption related to the acceptance of deposits exceeding €100,000 to Swiss and EEA nationals and residents; and
- explicitly identifying the Russian National Wealth Fund as a relevant entity for the purposes of the prohibition on transactions related to the management of reserves as well as of assets of the Central Bank of Russia, and certain affiliated parties.

In relation to Belarus, the new measures included:

- Adding three Belarusian banks (and their Belarusian subsidiaries) to the SWIFT ban, which will come into effect on March 20, namely: Belagroprombank, Bank Dabrabyt, and the Development Bank of the Republic of Belarus.
- Adding restrictions that mirror certain measures already in place for Russia, such as prohibiting:
  - transactions with the Central Bank of Belarus when related to the management of reserves or assets;
  - the provision of public financing or financial assistance for trade with, or investment in, Belarus;
  - the listing and provision of services in relation to the shares of Belarus state-owned entities on EU trading venues as of April 12, 2022;
  - the provision of euro-denominated banknotes to Belarus; and
  - the acceptance of deposits exceeding €100,000 from Belarusian nationals or residents, the holding of accounts of Belarusian clients by the EU central securities depositories, as well as the selling of euro-denominated securities to Belarusian clients.
- Adding certain obligations on the Network Manager for air traffic management functions in order to amend and ensure the correct implementation of the EU overflight ban for Belarusian aircraft, which has been in place since in June 2021 (after Belarusian authorities forced a Ryanair flight to land in Minsk on May 23, 2021 for the purposes of arresting a Belarusian journalist).

A fourth package of EU sanctions

On March 15, the European Union announced that it had finalized a fourth package of restrictive measures against Russia, in coordination with international partners including the United States. The implementing regulation was released late on March 15, prohibiting:

- dealing directly or indirectly with entities associated with the Russian government, as listed in Annex XIX, namely: OPK Oboronprom, United Aircraft Corporation, Uralvagonzavod, Rosneft, Transneft, Gazprom Neft, Almaz-Antey, Kamaz, Rostec, JSC PO Sevmash, Sovcomflot, and United Shipbuilding Corporation.
  - There is an exemption until May 15, 2022 for execution of contracts entered into before March 16, 2022 (or ancillary contracts necessary for their execution).
- the sale, supply, transfer or export of goods listed on Annex II – whether or not originating in the EU – to any person in Russia for use in Russia, and prohibition on related technical assistance, brokering services, financing and financial services.
  - There is an exemption for (a) the transport of fossil fuels – in particular coal, oil and natural gas – from or through Russia into the EU and (b) acts for the urgent prevention or mitigation of events with significant impact on human health or environmental safety.
  - There is also an exemption until September 17, 2022 for the execution of obligations arising under contracts concluded before March 16, 2022 (or necessary ancillary contracts) – parties relying on this must notify the Member State's competent authority at least five days in advance.
  - Member States may also authorize derogations where "necessary to ensure critical energy supply" within the EU or where the supply is intended exclusively for the use of entities owned by EU-incorporated companies.
- any new participation (or extension of existing participation) in any entity operating in the Russian energy sector – whether incorporated in Russia or a third country. It is also prohibited to be part of any arrangement to give a loan, credit or financing (including equity capital) to any such entity, or to create a joint venture. It is also prohibited to provide any "investment services" related to the listed activities.
  - Member states may also authorize derogations where "necessary to ensure critical energy supply" within the EU or where an act "exclusively concerns" an entity owned by an EU-incorporated company.
  - Critically, this prohibition does not list specific companies deemed to be "operating in the Russian energy sector".[3]
- the import of certain steel and iron products (as listed in Annex XVII) that originate in or have been exported from Russia, as well as any associated technical assistance, brokering services, financing and financial services (including financial derivatives, insurance and reinsurance). The EU estimates that this will deprive Russia of around € 3.3 billion in export revenue and intends to allocate increased import quotas to alternative third countries to replace and compensate for the banned Russian imports.
  - There is an exemption until June 17, 2022 to execute contracts concluded before March 16, 2022.

[3] "Energy sector" is defined in the regulation as "the exploration, production, distribution within Russia or mining of crude oil, natural gas or solid fossil fuels, the refining of fuels, the liquefaction of natural gas or regasification; (ii) the manufacture or distribution within Russia of solid fossil fuel products, refined petroleum products or gas; or (iii) the construction of facilities or installation of equipment for, or the provision of services, equipment or technology for, activities related to power generation or electricity production." The definition excludes civil nuclear related activities.

- the export of luxury goods to any person in Russia or for use in Russia. It applies to items listed in Annex XVIII that are over €300 in value (unless otherwise specified in the Annex)

- the provision of credit rating services or access to subscription services in relation to credit rating activities to any Russian nationals or entity established in Russia, from April 15, 2022.

The EU also added 15 more individuals and 9 more entities to the list of sanctioned persons.

Designations

The European Union published further asset freeze designations on March 9 (another 160 individuals, including 14 additional oligarchs and prominent business people and family members) and again on March 10 (adding further Russian politicians and military leaders). A raft of further additions to the list is expected to be made late on March 15, once the fourth package of sanctions is implemented, as described above.

On March 11, the European Banking Authority also issued a statement calling on financial institutions to ensure compliance with sanctions against Russia.

World Trade Organization status of Russia

Finally, in a joint statement on March 11, the G7 leaders announced that a "broad coalition" of World Trade Organization (WTO) members were preparing to revoke important benefits of Russia's 'Most Favoured Nation' (MFN) status.

The United States announced its intention to revoke Russia's MFN status later on March 11. On March 15, the European Union announced that Russia will be denied access to the MFN tariff for hundreds of their exports in the EU markets. The United Kingdom made a similar announcement on March 15, but noted that the revocation would apply to Belarus as well as Russia. The UK announcement also specified the addition of significant import tariffs on hundreds of Russian luxury goods (on top of existing tariff rates), as described above.