

Does 8th sanctions package restrict you doing business with current and new clients? 1/47/22



Senior Associate, PwC Legal
Elvita Gece



Associate, PwC Legal
Tereza Vagentroca

The business community keeps asking questions about restrictions imposed by the sanctions and how this affects doing business with existing and new clients in the future. The EU has adopted a number of sanctions packages since Russia invaded Ukraine on 24 February 2022. This article explores the eighth package launched on 6 October.

The eighth sanctions package

The list of sanctioned persons now includes an additional 30 individuals and seven entities that support the Russian invasion and are responsible for activities threatening Ukraine's sovereignty and independence.

To restrict Russia's economic development, the range of goods and services included in the eighth sanctions package is wider and it features, for example, the following bans and restrictions:



A ban on doing business with the Russian state-owned company "Russian Maritime Register of Shipping", which is also banned from accessing ports and locks within the EU, extending this ban to ships certified by this Russian company.



A ban on engaging in any transactions with Russian state-owned or state-controlled companies on the sanctions list. EU citizens are banned from taking up posts in those companies. It's also important to assess whether a sanctioned person is exercising control over a current or potential client.



There is a price ceiling in place so that EU operators may transport Russian oil to third countries only if its price is below that ceiling, to secure the stability of energy prices and to weaken the Russian economy.



A ban on importing steel products originating in or being exported from Russia. Special attention should be paid to logistics and transit of goods. There is also a ban on importing goods such as wood pulp and paper, certain components used in the jewellery industry (e.g. stones and precious metals), certain mechanisms and chemical goods, cigarettes, plastic and ready-made chemical products (e.g. cosmetic products) originating in or being exported from Russia.¹




A ban on exports so that the list of goods now includes the sale, supply, transfer or export of ancillary goods used in the aviation industry.²




A ban on IT consulting services to the Russian government or Russian-registered entities, units or structures, including consulting services associated with installing computer hardware, helping clients install computer hardware and computer networks and software implementation services, including all services involving advice on software, its development and implementation.



The earlier threshold of EUR 10,000 for crypto-asset services has been removed to prohibit all crypto-asset wallet, account or custody services to Russian nationals or individuals staying in Russia, or to any Russian-registered entity, unit or structure regardless of the wallet size.

 A ban on legal services to the Russian government or Russian-registered entities, units or structures in non-contentious matters, including commercial transactions involving application or interpretation of the law, participating together with or on behalf of clients in entering into commercial transactions, negotiations and other transactions with third parties, as well as in preparing, executing and reviewing legal documents. Yet the EU has made exceptions, indicating which legal services may be provided. The ban does not apply to legal consulting services involving representation, advice, preparation and review of documents relating to legal representation services, i.e. in cases or lawsuits heard by administrative agencies, courts and other duly formed official tribunals, as well as in arbitration and mediation processes.

 Restrictions on architectural and engineering services to the Russian government or Russian-registered entities, units or structures where architectural and engineering services include integrated engineering services, urban planning and landscape architecture services, as well as scientific and technical consulting services related to engineering.

Sanctions breaches

As the number of restrictions and bans increases, sanctions breaches are regularly identified, but they are not always deliberate. Although the supervisory authorities, in fulfilling their functions, give advice, run seminars and publish information sheets on how the restrictions and bans affect doing business with clients, it's not easy to navigate the wide range of bans and understand how they are applied.

Common issues arise from how a sanctioned person exercises control, including the need to determine ownership levels, indirect control and the client's connection with sanctioned persons, which may often be identified from publicly available information, as well as lack of information on goods or services being subject to the sanctions.

There are numerous ways a company may be unknowingly involved in circumventing the sanctions, for example:

- A client engages some middlemen who do not run proper sanctions checks or do not provide true information with documentary evidence of any completed checks.
- A client's details indicate a bank account registered in Belarus or Russia so the company runs the risk of indirectly supplying banned goods or services.
- A client does not provide full details of their ownership structure, or the client ownership structure includes a fund on which the client withholds details, posing the risk of the fund's beneficial owner and controller being a sanctioned person or someone related to them.
- A client wants to involve a third-country entity or individual in a transaction without any economic or logical reason, which may suggest that the goods are destined for Belarus or Russia or intended to support the war waged by Russia.

In the case of a deliberate breach of sanctions, any individual or entity that is involved in or provides support in circumventing the sanctions may be added to the sanctions list.

Looking at recent breaches, we should note the case of a person living in the Netherlands and being arrested for circumventing the sanctions after an investigation carried out by Europol and the Dutch Fiscal Information and Investigation Service discovered the person was selling, among other goods, chips usable in the manufacture of weapons to a Russian company. Europol's statement indicates the person carried out those acts knowingly.

Both intentional and unintentional attempts to circumvent the sanctions are regularly identified in Latvia. One of the latest news was about criminal proceedings which the State Revenue Service's Tax and Customs Police Board started in August concerning a possible breach of the EU sanctions by two company

officers in importing wood and steel products from Belarus.

We are also aware of potential attempts to circumvent the sanctions on an international scale. For example, a joint venture between an EU-registered airline and a United Arab Emirates (UAE) airline, in which the EU airline has a 49% stake and the UAE airline 51%, operating under UAE law and applicable sanctions, was planning to resume flights from Abu Dhabi to Moscow. A statement issued by the airlines drew widespread public condemnation of the EU airline's possible part in an attempt to circumvent the sanctions by providing air services in Russian airspace. The joint venture has now suspended its plans.

In view of this, companies should examine ways to continue business with their current and potential clients by regularly using search tools Financial Intelligence Unit sanctions and OFAC sanctions for sanctions binding on Latvia, as well as verifying the scope of sanctions in the EU Official Journal and on the OFAC website because those tools do not always include the latest information and data. We encourage companies to identify sanctions circumvention risks and to run routine checks on their current clients because a one-off client check is definitely no longer enough, considering how frequently the sanctions lists are updated. We also encourage you to assess whether there is a need to draw up a written sanctions risk policy to protect yourself and your company from breaching the sanctions unintentionally.

¹For details see annexes to Council Regulation (EU) No. 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine

²Ibid