EU sanctions in response to the crisis in Ukraine: **Frequently Asked Questions**

Contents

Disclaimer

The European Commission oversees the application of Union law under the control of the Court of Justice of the European Union. Only the Court of Justice of the European Union can provide legally binding interpretations of acts of the institutions of the Union.

These Frequently Asked Questions (FAQ) provide information on certain provisions under Council Regulations imposing restrictive measures in regard to the crisis in Ukraine and in particular Russia's military aggression against that country.

The FAQ do not cover travel bans and the arms embargo, which are laid down in Council Decisions only.

The purpose of the FAQ is not to cover all provisions in an exhaustive manner, nor to create any new legislative rules, but rather to contribute to uniform implementation by EU operators and national competent authorities ('NCA').

I. Individual financial measures

1. Asset freeze and prohibition to make funds or economic resources available

Q1.1.1 Do the sanctions extend to entities 'associated' to listed persons?

Only the persons specifically listed in the annex are targeted by sanctions. The fact that an entity is mentioned as 'associated' with a listed person (under the 'Identifying information' of the latter) does not make that entity a target of sanctions. However, its assets may still be impacted if the entity is owned or controlled by a listed person.

Q1.1.2. A non-listed entity is deemed to be controlled by a listed person. Do the sanctions extend to the parent company or to subsidiaries of that entity?

Once control over an entity is determined, the conclusion can extend over all subsidiaries of that entity. The conclusion does not extend to its parent company, nor to 'sister' companies in the same business group.

Q1.1.3. If the aggregated ownership of two (or more) listed persons amounts to over 50% of a non-listed entity, will that entity be considered as owned by listed persons?

Yes.

Q1.1.4. What measures should be adopted in respect of listed shareholders?

Shares qualify as 'funds' and therefore must be frozen if belonging to, owned, held or controlled by a listed person. This also means it is prohibited for the listed person to exercise any voting rights which could lead to any change to these shares (e.g. in their volume, location).

Q1.1.5. Should banks freeze funds coming from or going to a listed bank?

In principle, all assets held by a listed entity must be frozen. That includes funds coming from the entity and funds going to it.

Q1.1.6. Can an EU operator receive a payment from a non-listed person through a listed bank?

Payments received through a listed bank must be frozen by the receiving EU bank. This means that the transfer from such a listed bank will remain blocked on the EU bank; the payments will not be rejected nor will the funds be returned to the sender. EU operators may request to the relevant NCA the release of those funds, for instance under the 'prior contracts' derogation in Regulation 269/2014. EU operators should bear in mind that only a limited number of Russian banks have been listed; in their business relations with Russian suppliers and clients, EU operators should use best efforts to avoid involving listed banks.

Q1.1.7. Is the provision of manual or intellectual labour by EU citizens in an EU Member State considered to be „making available of economic resources" (directly or indirectly) to the listed person or entity?

As indicated in the Commission opinion of 19 June 2020, the Commission is of the view that working for an owned or controlled entity can be considered as making economic resources indirectly available to the listed person exerting ownership/control over that entity insofar as this labour

enables the listed person to obtain funds, goods, or services. The latter assessment is for the National Competent Authority to make.

Q1.1.8. Does the derogation in Article 6 of Council Regulation (EU) No 269/2014 allow for the payment of salaries of EU citizens by entities located in Member States considered to be owned or controlled by a listed person?

Assets of an owned or controlled entity that are frozen because they were deemed to be controlled by the listed person can be released on the basis of an authorisation granted in line with Article 6 of Council Regulation (EU) No 269/2014, if the conditions specified therein are fulfilled, notably that payment is due under a contract or agreement that was concluded or an obligation that arose before the date on which the person was listed in the Annex to that Regulation; the frozen funds are used for a payment by a listed person (or in this case the owned/controlled entity), and the payment is not made towards any listed person.

Q1.1.9. If one person is a board member in a designated Russian/Belarusian company and at the same time is a board member in an EU bank, should that person resign from one such post? Can one person be considered of good repute/integrity if he/she is a board member in a company that is sanctioned?

EU sanctions are targeted, meaning that they apply only to those persons and entities that are subject to a specific restriction (e.g. asset freeze, financing ban etc.). Therefore, sanctions on designated entities do not automatically extend to their board members. However, board members may be designated themselves.

The notions of good repute/integrity are indeterminate legal concepts which are not defined in EU restrictive measures.

In EU law, the notion of good repute has been interpreted by the Court of Justice of the EU *(case T-, Pilatus v European Central Bank, point 73*), in the context of Article 23(1) of Directive 2013/36 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms. According to the Court, in the absence of an exhaustive definition of that concept or a list of conduct which may fall within the scope of that concept, the competent authorities are required to examine on a case-by-case basis whether the criterion of good repute is met by a shareholder seeking to acquire a qualifying holding in a credit institution. This requires taking into account the relevant facts (among which the fact that the person in question sits on the board of a sanctioned entity is relevant), the reasons underlying the criterion and the objectives which that criterion is intended to secure. The principle of legal certainty does not, therefore, preclude those authorities from enjoying discretion in the application of the criteria in question.

Q1.1.10. Two persons are considered to jointly control the funds and economic resources of a bank designated in Annex XII, as they are the main shareholders of the group to which this banks belongs. Shall the entirety of the assets and economic resources of the bank be regarded as being in the possession or control of these two persons? Shall the funds and economic resources belonging to, owned, held or controlled by the bank be frozen in accordance with the Article 2(1) of Council Regulation (EU) No 269/2014? Shall no funds or economic resources be made available, directly or indirectly, to or for the benefit of the bank in accordance with Article 2(2) of Council Regulation (EU) No 269/2014?

If the control over the bank is established, then it can be presumed that all assets of the bank are controlled by the listed person(s), and that funds or economic resources made available to the bank

would reach the listed person(s). Assets must therefore be frozen, and no funds or economic resources can be made available to the bank. However, the bank may obtain the lifting of the assets freeze on some or all of its assets, or have funds or economic resources made available to it, by showing that these assets are in fact not controlled by the listed person(s). This notwithstanding, the bank may be targeted by financial restrictions under Council Regulation (EU) No 833/2014.

Q1.1.11. Two persons are considered to jointly control the funds and economic resources of a bank designated in Annex XII, as they are the main shareholders of the group to which this bank belongs. Shall the funds and economic resources of all the companies belonging to the group be considered as controlled by these two persons and accordingly be subject to restrictions under Article 2 of Council Regulation (EU) No 269/2014?

If control of the listed person(s) over the group as a whole is determined, then the conclusion can extend to all subsidiaries within the group. If control is only determined over a single entity in the group (e.g. the designated bank), then this should only impact its own subsidiaries, and not other companies in the wider group.

Q1.1.12. Should a company be subjected to an asset freeze if one of its shareholders or a Board member is designated?

No. The prohibition to provide funds and the asset freeze apply only to the specific persons and entities 'sanctioned'. However, those measures can apply to companies non 'sanctioned' as well if it is established that they are (i) owned or (ii) controlled by a sanctioned person, that is to say respectively if the latter is in possession of more than 50% of the proprietary rights of the entity (or has majority interest in it), or if the latter is able to and effectively asserts a decisive influence over the conduct of the company in question.

II. Finance and banking

1. Central banks

Q2.1.1 Regarding the scope of Article 5a (paragraph 4) of Council Regulation (EU) No 833/2014, does this prohibition cover conversion and foreign exchange transactions (EUR/USD to RUB conversion) carried out by subsidiaries of EU companies in Russia through Russian commercial banks?

EU sanctions do not apply extra-territorially. Therefore Russian subsidiaries of EU parent companies are not obliged to comply with the sanctions. However, it is prohibited for EU parent companies to use their Russian subsidiaries to circumvent the obligations that apply to the EU parent.

Q2.1.2.

Q2.1.3.

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2. Crypto-assets

Q2.2.1. Are crypto-assets and in particular cryptocurrencies covered by these sanctions?

The definition of 'funds' in Council Regulation (EU) No 269/2014 includes cryptocurrencies. As such, cryptocurrencies are covered by the relevant provisions in that legal act (asset freeze and prohibition to make funds or economic resources available to listed persons). See also Section I.

For its part, Council Regulation (EU) No 833/2014 clarifies that 'transferable securities' include crypto-assets, but it adds 'with the exception of instruments of payment'. See also subsection 4 below.

In addition, crypto-assets should not be used to circumvent EU sanctions.

Apart from these measures, there is no general ban on transactions in crypto-assets.

3. Euro-denominated banknotes

Q2.3.1. Does the ban on supplying euro-denominated banknotes relate to physical notes only or does it also include transfers via bank accounts?

The restrictions introduced on euro-denominated banknotes concern physical banknotes and do not extend to transfers via bank accounts. Transfers via bank accounts may however fall under other restrictions (e.g. transfers to listed persons or transfers through a listed bank).

Q2.3.2. How should the exception for personal use from the prohibition to export euro-denominated banknotes to Russia be interpreted?

For the consideration of the term "personal use" as provided in Article 5i, the determining factor is the non-commercial nature. The objective of the prohibition to export euro-denominated banknotes to Russia is to prevent the Russian Government, its Central Bank and natural or legal persons in Russia to get access to EUR banknotes. The exception built in the provision, which allows the supply of EUR banknotes for personal use of natural persons travelling to Russia or members of their immediate families travelling to them, should be interpreted in narrow terms.

The exception should be used for commercial purposes or reflect a commercial interest. This includes cases where Russian companies are closing down and returning to Russia with cash belonging to the company. As regards employees of companies closing down who return and take their savings with them, there is no reason to allow Russians to repatriate their savings in Russia. It should be underlined that the measure is temporary and linked to the aggression of Ukraine by Russia.

Furthermore, the exception cannot be used to bring cash to acquaintances, friends or parents, because the exception is limited to those travelling. It should cover the necessities of natural persons of members of their family during their trip.

Q2.3.3.

[…]

4. Exchanges and trading

Q2.4.1.

Q2.4.2.

Q2.4.3.

[…]

5. Financial services

Q2.5.1. Does Article 5f of Council Regulation (EU) No 883/2014 allow an entity which is wholly owned by Russian citizens or entities but registered in a country other than Russia to invest in euro-denominated securities issued after 12 April 2022?

The prohibition set out in Article 5f only applies to the sale of such transferable securities to Russian nationals or natural person residing in Russia or any legal person, entity or body established in Russia. It does not apply to an entity established in the EU owned by Russian citizens but registered in a country other than Russia. However, the provision should be read in conjunction with article 12 which prohibits EU operators from knowingly and intentionally circumventing the measures in the Regulation. The purpose of the measure is to limit access to Russian entities and persons in Russia

and to avoid circumvention of other refinancing prohibitions which are set out in the same Regulation.

Q2.5.2. Are limits targeting new deposits received after 25 February 2022? Does any account balance held for Russian nationals and residents fall into the targeted categories as well? If yes, what action would be required on balances held at the bank that are over EUR 100 000?

As regards existing deposits, if a Russian national or natural person residing in Russia had more than EUR 100 000 in a deposit on the day of entry into force of the amended Regulation (26 February 2022), the relevant deposit is grandfathered. This means that the Russian national or natural person residing in Russia is entitled to keep the money and do whatever it wants (e.g. withdraw, leave in the account), but it cannot increase the balance in a way that would exceed EUR 100 000 (unless the competent authority of a Member State grants an authorisation under Article 5c or 5d).

Q2.5.3. Should the broad term "entities" in Article 5b of Council Regulation (EU) No 833/2014 be interpreted as including subsidiaries of European financial institutions in Russia?

The term 'entities' in Article 5b of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) No 2022/328 encompasses all entities established in Russia, including subsidiaries of EU operators which are incorporated in Russia.

The prohibition does not apply to those deposits that are necessary for non-prohibited cross-border trade in goods and services (Article 5b(3)). Moreover, Article 5c enables the competent authorities of the Member States to authorise the acceptance of such deposits if they are necessary for, among others, satisfying the basic needs of natural or legal persons.

Q2.5.4. Should an EU bank monitor deposits and gather information per customer and per financial institution regarding from where these funds are generated in order to ensure that the cumulative amount not exceeding EUR 100 000 per financial institution is complied with?

Yes. EU operators must not accept (new) deposits in excess of EUR 100 000. If a Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia had less than EUR 100 000, it is entitled to increase the balance of the deposit up to EUR 100 000 (but not more) per credit institution.

Q2.5.5. Is a deposit for more than EUR 100 000 made from outside of Russia to an EU bank by a Russian national residing in Russia in violation of the restriction under Article 5b of Council Regulation (EU) No 833/2014?

Yes. Banks need to monitor incoming transactions to accounts held by Russian nationals and natural persons residing in Russia to ensure that the EUR 100 000 limit is not exceeded, irrespective of where the incoming transactions are made from.

Q2.5.6. Does the meaning of "deposit" also include (i) accounts opened to hold collateral for financing arrangements (ii) shared accounts, for example accounts of spouses?

In case the person with whom the account is shared also falls within the scope of the prohibition (i.e. being Russian nationals or natural persons residing in Russia, or legal persons, entities or bodies established in Russia), then these deposits fall within the scope of the prohibition. As the prohibition applies per natural or legal person, entity or body, the total value of the deposits can be split over two persons to calculate whether the individual value of the deposits exceeds EUR 100 000. In this case, for an account shared by two persons both subject to the prohibition, the maximum value of deposits allowed to be held per credit institution would be EUR 200 000.

The prohibition does not apply to EU nationals (Article 5b(2)). In case an EU national co-holds a deposit with a targeted nationality, the prohibition does not apply. However, if the co-holding account is used to circumvent the rules, the prohibition applies to them as well (Article 12).

Q2.5.7. Does the meaning of "deposit" also include correspondent accounts for Russian banks, especially of Russian bank subsidiaries of banks headquartered in the EU?

The prohibition applies to "*legal persons, entities or bodies established in Russia*". Russian banks, including subsidiaries of banks headquartered in the EU, would fall under that definition and would therefore be subject to this prohibition. However, the prohibition shall not apply to deposits which are necessary for non-prohibited cross-border trade in goods and services between the European Union and Russia. Whether the correspondent account qualifies for this exemption would need to be assessed on a case-by-case basis.

6. SWIFT

Q2.6.1. Will it be assessed as a circumvention of this rule if the seven banks subject to the SWIFT decoupling resort to other means of communication to compensate for this discontinuation to the Swift network?

Prohibitions contained in EU sanctions regulations must be complied with by EU operators – both within and outside of the territory of the Union (see previous reply). Therefore, in this particular case, the direct obligation/prohibition is on SWIFT and not the decoupled Russian banks. However, SWIFT [and any other financial messaging service provider there may be in the EU and any EU operator] cannot circumvent this prohibition.

See Article 12 of Council Regulation (EU) No 883/2014:

"It shall be prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in this Regulation including by acting as a substitute for natural or legal persons, entities or bodies referred to in Articles 5, 5a, 5b, 5e and 5f or by acting to their benefit by using the exceptions in Articles 5(6), 5a(2) 5b(2), 5e(2) or 5f(2)."

Q2.6.2. The SWIFT channel will be covering Russian Banks that potentially also have branches and subsidiaries around Europe. Will the SEPA channel for these subsidiaries also be blocked?

Article 5h of Council Regulation (EU) No 833/2014 as amended states that "it shall be prohibited as of 12 March 2022 to provide specialised financial messaging services, which are used to exchange financial data, to the legal persons, entities or bodies listed in Annex XIV or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIV".

Therefore, only subsidiaries of the seven credit institutions listed in Annex XIV which are established in Russia are covered by this prohibition.

Q2.6.3.

III. Trade and customs

1. Import and export restrictions: Russia, Belarus

FAQs on export-related restrictions pursuant to Articles 2, 2a and 2b of Council Regulation No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine have been published on DG FISMAs website[1].

Q3.1.1. What is the difference between "import", "purchase" and "transport"?

"Import" refers to the entry into the customs territory of the EU. "Purchase" refers to the act of buying. "Transport" refers to the physical movement of goods from one place to another.

Q3.1.2. What is the difference between "transport" and "transfer"?

"Transfer" is a broader concept than "transport", covering a wide range of operations, not only the movement of goods through customs controls, but also the loading, transport, transit and trans-shipment of goods.

Q3.1.3. Does the prohibition to transfer certain goods include the prohibition of transit across an EU country of such goods between third countries?

Yes. The transit via the EU territory of goods subject to sanctions is not allowed under the transfer prohibition. This prohibition also applies when the goods originate in third countries and are not destined for the EU.

Q3.1.4. Are goods transiting through Belarus/Russia considered Belarusian/Russian "exports"?

Goods transiting through Belarus/Russia under a customs transit procedure (including via pipelines and railways) are not considered to have been "exported" from Belarus/Russia. However, if the goods have first been imported into Belarus/Russia in the technical customs sense, their re-exportation from Belarus/Russia would constitute an "export".

Q.3.1.5. Does the prohibition to import certain goods from Belarus/Russia apply to third country goods transiting through Belarus/Russia?

No. The import of goods from third countries that transit through Belarus/Russia is not prohibited. However, the circumvention of import restrictions is prohibited. National competent authorities should conduct the necessary checks to ensure that the transit of third country goods through Belarus/Russia is not used to circumvent the prohibitions applicable to Belarusian/Russian products (for example through verifications of certificates of origin). If there is sufficient evidence that the imports of third country products are used to circumvent our sanctions, they should be prohibited.

[1]shipshttps://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/220316-faqs-export-related-restrictions-russia_en.pdf

2. Luxury goods

Q3.2.1. What does an 'item' mean in the value threshold ("*insofar as their value exceeds EUR 300 per item unless otherwise specified in the Annex*")?

Note: the Commission intends to clarify this in an upcoming FAQ.

Q3.2.2. How is the EUR 300 value to be assessed?

Note: the Commission intends to clarify this in an upcoming FAQ.

3. Import and export restrictions: Crimea and other areas of Ukraine

Q3.3.1. How should operators assess which areas in the Donetsk and Luhansk oblasts are subject to restrictions?

Council Regulation (EU) No 2022/263 covers all areas of the Donetsk and Luhansk oblasts of Ukraine that are not under the control of Ukraine at the time of the transaction in question. A dynamic assessment is therefore necessary.

When it comes to trade restrictions in particular, Ukraine does not issue certificates of origin under the EU-Ukraine Association Agreement (AA) for goods originating in the non-government controlled areas of Donetsk and Lugansk oblasts. In addition, Ukraine has withdrawn offices in those areas from the list of authorised offices to issue certificates of origin. Goods may be exported under preference from the areas of the Donetsk and Luhansk oblasts that are under the control of Ukraine. NCAs should consult the SMS system at the moment of importation. On 23 February the Commission published a notice to importers[2] informing that goods produced in and exported from the non-government controlled areas would not meet the criteria established in Protocol 1 to the AA (on rules of origin) and therefore advising operators not to claim the preferences.

4. Customs-related matters

FAQs have been published on DG FISMAs website. It contains 14 FAQs on the following subjects: where to find sanctions information, border crossings, goods entering the EU, on goods moving from the EU and on various other issues. A few of the questions and replies included are:

Q3.4.1. Are there any specific instructions, guidance, and notices to importers?

Yes. The following notices have been published:

[2] Notice to importers: Imports of products into the Union under the EU-Ukraine Association Agreement from the nongovernment controlled areas of the Donetsk and Lugansk oblasts of Ukraine (2022/C 87 I/01).

- Notice (2022/C 87 I/01) to importers on imports of products into the Union under the EU-Ukraine Association Agreement from the non-government controlled areas of the Donetsk and Lugansk oblast in Ukraine has been published on 23 February 2022 (OJ C 87).
- Notice (2022/C 93 I/01) to importers on Imports into the Union of goods originating in the non-government controlled areas of the Donetsk and Lugansk oblasts of Ukraine.
- See also information on the: Communication providing operational guidelines external border management EU-Ukraine borders_en_1.pdf

Q3.4.2. Should containers coming from 3rd countries that travel to Russia through an EU port be checked just as containers originating from the EU?

Yes, the regulation indicates that the sanctions apply to goods "whether or not originating in the Union".

5. Insurance and reinsurance

Q3.5.1. A Russian insurance company insures an aircraft or an engine of an EU policy holder and gets reinsurance from an EU reinsurer. Is the reinsurance provided by the EU reinsurer to the Russian insurer prohibited under Article 3c(2)?

Articles 3c(2) prohibits an EU reinsurance company to provide its services to a Russian person or entity. The EU operators affected must take the necessary measures in light of this situation.

Q3.5.2. Do the prohibitions in Article 3c(2) extend to the provision of insurance and reinsurance in respect of coverage of a non-Russian airline which conducts flights into and out of Russia?

Article 3(c)(2) contains a specific prohibition to provide re/insurance in relation to an aircraft. This is different from the prohibitions on financial assistance in Article 3c(4) as well as Articles 2 and 2a. Insurance in relation to a sale, supply, transfer or export is covered under the prohibition in article 3c(4), since insurance/re-insurance are part of the notion of "financing and financial assistance" as per Art 1(o).

The provision of re/insurance in the context of an international flight in and out of Russia by a non-Russian airline which does not have a Russian re/insurance is not covered by the prohibition as it is not for 'use in Russia' but part of the normal international services provided by an airline. The wording 'for use in Russia' is a standard formulation used to avoid the circumvention of the measures as it ensures that products and services sold/supplied/provided to third country persons, but to be used in the country subject to sanctions, are also prohibited.

Q3.5.3. Do these prohibitions extend to the provision of insurance or reinsurance of any parts or components for the purposes of conducting repairs to an aircraft, which conducts flights, if such repair takes place in Russia?

Where the prohibitions applies to the re/insurance of goods and technology, this includes parts or components that fall under the scope of Annex XI.

The provision of re/insurance in the context of an international flight in and out of Russia by a non-Russian airline which does not have a Russian re/insurance is not covered by the prohibition as it is not for 'use in Russia' but part of the normal international services provided by an airline. This is true also for the re/insurance of any parts or components for the purposes of conducting repairs to an aircraft, where a non-Russian airline conducts flights into and out of Russia.

Q3.5.4. Do these prohibitions extend to an EU company sending an EU vessel to load licit cargo into a Russian port (e.g., normal goods, humanitarian goods, food)?

The prohibitions in Article 3c apply to insurance and reinsurance related to aircrafts (see Annex XI). The prohibitions in Articles 2 and 2a do not prevent airplanes, vessels and trucks from leaving or returning to the Union as part of normal commercial activities, as such movement does not constitute a "sale, supply, transfer or export". The prohibition on financing and financial assistance in Articles 2 and 2a cover insurance activities (see Article 1(o)) but only in so far as they relate to the sale, supply, transfer or export of the listed goods.

Q3.5.5. Do the prohibitions in Article 3c also apply to the insurance of transhipments of aircrafts and aircraft parts in EU territorial waters and airspace?

Insurance in relation to a sale, supply, transfer or export is covered under the prohibition in Article 3c(4), since insurance/re-insurance are part of the notion of "financing and financial assistance" as per Article 1(o). "Transfer" is a broader concept than "transport", covering a wide range of operations, not only the movement of goods through customs controls, but also the transport of goods, including the loading, transport, and trans-shipment of goods. Accordingly, the insurance of a transit via the EU territory of goods subject to sanctions is not allowed.

Q3.5.6. How does the wind down period in Article 3c paragraph 5 pertain to insurance services?

The wind down provision applies to subsections 1 and 4 only. Provided an insurance contract was concluded before 26 February 2022, insurance services for the sale, supply, transfer or export of goods and technologies listed in Annex XI are not subject to restrictions until 28 March 2022. On the other hand, the prohibition of insurance and reinsurance in subsection 2 applies as from 26 February 2022.

Q3.5.7. Council Regulation (EU) No 2022/328 amended Council Regulation (EU) No 833/2014 and provided a definition of "financial assistance" in Article 1(o), does this apply to all measures in respect to insurance?

Yes, the definition of "financing or financial assistance" contained in Article 1(o) applies throughout Council Regulation (EU) No 833/2014.

Q3.5.8. Article 2 prohibits the provision of financial assistance for the sale, supply, transfer or export of dual-use goods and technology, unless authorised by the national competent authority. By whom the authorisation should be requested: the exporter (i.e. the insured), the insurer or both?

The authorisation should be requested by the insurer after consulting the exporter.

For more information, you can consult the dedicated frequently asked questions on Article 2 and 2a on this webpage: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions/sanctions-adopted-following-russias-military-aggression-against-ukraine_en#faq

Q3.5.9. Council Regulation (EU) No 269/2014 contains individual financial measures against a number of persons and entities. Should EU re/insurance operators cease to provide insurance services to these persons and entities? How should they proceed?

Persons and entities listed under Council Regulation (EU) No 269/2014 are subject to financial sanctions that consist of an asset freeze and a prohibition to make funds and economic resources

available to them. They are listed in Annex I to the Regulation. These sanctions come into force from the date the person or entity is listed. This is distinct from the sectorial measures provided for in Council Regulation (EU) No 833/2014, which contains certain prohibitions regarding insurance.

The prohibition to make funds and economic resources available to a listed person or entity means that an EU operator cannot put any funds or economic resources at the disposal of a listed person, directly or indirectly, whether by gift, sale, barter or any other means, including the return of the listed person's own resources. The consequence of a listing is that the provision of services to the listed person, including insurance, should cease. It is up to the EU operator to take the measures most appropriate in light of the situation.

Exceptionally, an EU operator could proceed with a payment to the frozen account of a listed person provided such funds are also frozen and provided the payment is due under a contract concluded before the date at which the person was listed (See Article 7).

IV. Other fields

1. Transportation (aviation, maritime)

FAQs on aviation related matters concerning sanctions adopted following Russia's military aggression against Ukraine have been published on DG FISMAs website[3].

[…]

2. Media

Q4.2.1. Does Council Regulation (EU) No 833/2014 also cover the dissemination of content through other means such as a website? Does the content only include the TV stations of the targeted entities, or does it also cover their websites and/or other content that they might disseminate over the Internet?

This provision goes beyond the broadcasting of TV stations. The term 'broadcast' in conjunction with 'any content' is to be understood as covering a broader range of content provision than the term 'television broadcasting' used in the Audiovisual Media Services Directive[4]. It should be understood as transmitting or distributing any type of content in the broadest possible meaning (long videos, short video extracts, news items, radio etc.) to a wide audience regardless of the means of transmission or distribution (including online).

[3]https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/faqs-sanctions-russia-aviation_en.pdf

[4] Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, OJ L 95, 15.4.2010, p. 1–24.

The terms 'facilitate or otherwise contribute to' are meant to also cover the dissemination of content provided by the targeted entities to other media outlets.

Q4.2.2. The targeted entities have Internet subdomains and also newly-created domains. Are EU operators obliged to suspend access to all such subdomains and new domains?

The entity that registers a domain has control over the subdomains; if the domain is blocked, its subdomains should be blocked as well. The prohibition laid down in Council Regulation (EU) No 833/2014 also applies to newly created Internet domains that are run or controlled by the targeted entities.

Q4.2.3. Does the Regulation create obligations for parties other than operators of cable, satellite, IP-TV, Internet Service Providers, or online video-sharing platforms?

Council Regulation (EU) No 833/2014 sets out a number of examples ('such as'), so it also addresses, for instance, caching services, search engines or hosting service providers whose services can be used to disseminate propaganda from the targeted entities.

Q4.2.4. As part of their reporting, can journalists acting in good faith transmit content created by the targeted entities?

Media have the freedom to report objectively on current events and to form their opinions thereon, and users have the right to receive objective information on current events. At the same time, freedom of speech can be restricted for legitimate public interests in a proportionate manner. Freedom of speech should not be used by other media outlets to circumvent Council Regulation (EU) No 833/2014.

3. Intellectual property rights

Q4.3.1. Do sanctions apply to intellectual property rights (patent applications, patents and related procedures) in the EU?

EU sanctions can indeed apply to intellectual property rights (IPRs). In particular, IPRs can qualify as "economic resources" under Council Regulation (EU) No 269/2014.

On the one hand, this makes IPRs subject to the asset freeze, which means that public institutions (e.g. a trademark register) must not enable the use of IPRs of a listed person, or of a person owned or controlled by a listed person (e.g. no property transfer should be registered). On the other hand, in view of the prohibition to make funds or economic resources available to listed persons, EU operators cannot pay license fees for an IPR to a listed person.

See also Section I.

Q4.3.2.

Q4.3.3.

[…]

V. Horizontal

1. General questions

Q5.1.1. What is a 'contract'?

The term 'contract' has already been used in most EU sanctions regime, including Council Regulation (EU) No 833/2014, which has been in force since 2014. It means a binding commitment between two or more parties. Such an agreement should contain all the necessary elements for its validity and the execution of a transaction (e.g. indication of the parties, price, quantities, delivery dates, modalities of execution).

Q5.1.2. Are the subsidiaries or branches of EU companies in Russia required to comply with EU sanctions?

EU sanctions do not have an extra-territorial effect. Council Regulations establishing sanctions apply within the territory of the Union; on board any aircraft or any vessel under the jurisdiction of a Member State; to any person inside or outside the territory of the Union who is a national of a Member State; to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State; to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Therefore, EU sanctions must be complied with by all EU persons – both natural and legal – and therefore all EU incorporated (parent) companies. As such, Russian subsidiaries of EU parent companies are not expected to comply. It remains is prohibited for EU parent companies to use their Russian subsidiaries to circumvent the obligations that apply to the EU parent. Branches of EU companies, however, do not have distinct legal personality from their parent company, and must comply with EU sanctions.

Q5.1.3. Do entities targeted in Council Regulation (EU) No 833/2014 appear in the Consolidated List of Financial Sanctions?

No. The Consolidated List indicates persons and entities subject to individual financial measures, i.e. an asset freeze and a prohibition to make funds or economic resources available to them.

The Regulation sets out economic (sectoral) sanctions, some of which concern interactions with specific Russian entities.

2. Circumvention and due diligence

Q5.2.1. What does the anti-circumvention clause entail?

Legal: Article 12 of Council Regulation (EU) No 833/2014 prohibits knowing and intentional participation in activities the object or effect of which is to circumvent prohibitions in the Regulation. Thus, for example, diverting prohibited trade through third countries would constitute a violation of the obligations imposed by Council Regulation (EU) No 833/2014. Enforcing such provisions is first and foremost a matter for the NCA and any tips/information regarding possible circumvention should be actively reported to them.

Customs guidance: The Commission (DG TAXUD) is working on a notice highlighting that exporters need to exercise due diligence when exporting to countries (in particular neighbouring ones) from where targeted goods can be re-exported easily to Russia or Belarus, and also warning Member States' customs of the risk so that they are particularly vigilant. DG TAXUD has also developed a dashboard tool to follow the evolution of trade flows and detect possible circumvention through third countries as soon as possible and be able afterwards to further target the possible reactions depending on the third countries concerned.

Question to EG: It would be good to hear from the EG their risk assessment, for instance via exports to intermediate third countries and feedback they may have from their operators and enforcement agencies.

Q5.2.2. How far should due diligence be performed, in particular when faced with complex ownership structures and obfuscation techniques?

The prohibition to make funds or economic resources available to listed persons is an obligation of result.

Assessing the beneficial ownership of a business counterpart is part of due diligence and can also serve other purposes than mere sanctions compliance (e.g. reputational issues). There is no one-size-fits-all model of due diligence, as this may depend – and be calibrated accordingly – on the business specificities and related risk exposure. It is for each operator to develop, implement, and routinely update an EU sanctions compliance programme that reflects its individual business models, geographic and sectoral areas of operations and related risk-assessment.

Question to EG: advisability and ways to exchange more on due diligence support (sharing resources supporting due diligence, local input and info-sharing embassies/EUDEL…)?

Q5.2.3. How should EU operators deal with non-listed Russian companies whose top management is listed?

Dealing with a Russian company whose CEO or top management is listed raises the issue of ownership or control of the company by its listed top manager(s). Criteria to assess whether such ownership or control is relevant have been further addressed by the Commission in its June 2020 and June 2021 opinions and are also set out in the EU Best Practices for the effective implementation of restrictive measures.

If the ownership or control by the listed person is determined, the funds and economic resources of the entity over which the listed person has ownership or control must be frozen. Furthermore, the making available of funds or economic resources to the entity will in principle be considered as making them indirectly available to the listed person, unless it can be reasonably determined, that the funds or economic resources concerned will not be used by or be for the benefit of the listed person. See as well question on due diligence above. See also Section I.

Q5.2.4. For companies registered and incorporated outside of Russia, are entities with Ultimate Beneficial Owners identified as being Russian nationals or natural persons residing in Russia, or legal persons, or entities or bodies established in Russia, subject to the restrictions?

Legal persons incorporated outside the EU are not expected to comply with the Regulation. However, EU operators should ensure, via their due diligence, that such non-EU entities are not used by an Ultimate Beneficial Owner to mask its identity and evade the sanctions.

3. Enforcement and penalties

Q5.3.1.

Q5.3.2.

Q5.3.3.

[…]

4. Whistleblowing

Q5.4.1. How can one report a possible violation of EU sanctions?

The ultimate responsibility for the correct application and enforcement of EU sanctions rests with the Member States. The task of conducting investigations into potential non-compliance cases falls within the competence of the different NCAs. Information about possible violations can be submitted directly to these NCAs. A list of the NCAs and their contact details can be found in the annexes to each Regulation.

The Commission supports the uniform implementation of sanctions throughout the EU, and monitors their enforcement by Member States. To this end, the Commission has created the Whistleblower Tool, a secure online platform that can be used by anyone around the world to anonymously report past, current, or planned violations of EU sanctions[5]. If the Commission considers that the information provided by the whistleblower is credible, it will share the anonymised report and any additional information gathered during the internal inquiry with the relevant NCA(s). The Commission may subsequently provide further assistance to the investigation and periodically follow up on the investigation until a conclusion is reached.

[5] https://eusanctions.integrityline.com/