

Client Alert

International Trade

12 September 2014

New EU Russia sanctions: ban on oil project services; wider capital market sanctions (loans and credit, shorter-term equity, with 6 new defense/energy companies); dual-use export ban for 9 companies; 24 more people on asset freeze

I. Introduction

Today, the EU published a second round of **targeted sanctions against Russia**. These new measures expand the EU's existing Russia sanctions and restrict access to **capital markets** covering certain loans and credit, trade in money market instruments with a maturity exceeding 30 days, and by adding six Russian defense and energy companies to those targeted by the capital market restrictions. They also prohibit certain oil project **services** for deep water oil, Arctic oil and shale oil projects in Russia. They broaden the EU ban on providing **dual-use items**, which now covers nine listed Russian companies. In addition, the existing EU ban on providing financial services relating to prohibited arms exports has been expanded to include **(re-)insurance**.

Furthermore, **24 persons** have been added to the EU's **asset freeze and travel ban** list, including one senior business figure.

These new sanctions measures all take effect on **12 September 2014**.

In a press statement, the President of the European Council confirmed that **the EU may consider (partially) amending, suspending or repealing the sanctions depending on a review of the peace plan and the situation on the ground**.¹

II. Scope of Targeted Russia Sanctions

EU Regulation 960/2014² adds new sector-specific sanctions targeting Russia to Regulation 833/2014,³ which contains the existing Russia sanctions since 1 August 2014 (see our alert from 31 July 2014 [here](#)).

Capital Markets

The EU further restricts Russian **access to EU capital markets**, as follows:

- The existing EU sanctions relating to certain **transferable securities and money-market instruments** – i.e. with a maturity exceeding 90 days issued after 1 August 2014 by five Russian banks listed in Annex III to Regulation 833/2014 (and certain affiliates)⁴ – have been extended to cover shorter-term instruments; now, such transferable securities and money-market instruments

¹ See http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/144867.pdf.

² See [Council Regulation \(EU\) No 960/2014](#) of 8 September 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

³ See [Council Regulation \(EU\) No 833/2014](#) of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine.

⁴ The five listed Russian state majority owned institutions are as follows:

1. SBERBANK
2. VTB BANK
3. GAZPROMBANK
4. VNESHECONOMBANK (VEB)
5. ROSSELKHOZBANK

The ban also covers non-EU parties whose proprietary rights are directly or indirectly majority owned by these listed banks, or (EU or non-EU) parties acting on behalf or at the direction of such listed banks or majority-owned entities.

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with a maturity **exceeding 30 days issued after 12 September 2014** are covered as well. There have been some technical changes to the sanctions as well – see footnote.⁵

- Furthermore, the EU ban relating to these new shorter-term transferable securities and money-market instruments has been expanded to target – in addition to the five Annex III Russian banks and their affiliates – **six listed Russian defense and energy companies** along with certain affiliates as of 12 September 2014.⁶ These Russian companies, which are now listed in Annexes V and VI to amended Regulation 833/2014, are as follows:

1. OPK OBORONPROM
2. UNITED AIRCRAFT CORPORATION
3. URALVAGONZAVOD
4. ROSNEFT
5. TRANSNEFT
6. GAZPROM NEFT

- With respect to the eleven listed Russian entities (i.e. the five listed banks and six listed defense and energy companies) and their affiliates, a new EU ban is also introduced to prohibit **directly or indirectly making or being part of any arrangement to make new loans or credit with a maturity exceeding 30 days** to them after 12 September 2014. The sanctions do not apply if the loans/credit have the following specific and documented objectives: either they relate to non-prohibited trade of goods and EU-Russia non-financial services or they are emergency funding to meet solvability/liquidity criteria for EU entities that are majority owned by the listed Russian banks.

Oil-related Services

Expanding on the current EU ban on direct or indirect EU sale, supply, transfer or export of key energy related equipment and technology (listed in Annex II to Regulation 833/2014) for use in **deep water oil exploration and production, Arctic oil exploration and production, and shale oil projects in Russia**, the EU is now prohibiting direct or indirect provision of certain **services** required for such projects. The associated services that are now prohibited are:

- Drilling
- Well testing
- Logging and completion services; and
- Supply of specialized floating vessels.

Exemptions apply, however, to the execution of an obligation arising from a contract or framework agreement concluded before **12 September 2014** (or ancillary contracts required for the execution of such contracts), as well as when the services relate to urgent activities to protect public health or safety, or the environment. It is notable that none of the above services (nor other concepts, such as deep water) are defined in the EU Regulations.

Arms and Dual-Use Items

Regulation 960/2014 also extends existing EU sanctions measures which impose a ban on direct or indirect sale, supply, transport or export of so-called **dual-use goods and technology** (as listed in Regulation 428/2009)⁷ to parties in or for use in Russia when such items are or may be intended for military use or for military end-users. This ban has been broadened to cover **nine Russian companies** (listed in Annex IV to amended Regulation 833/2014):

1. JSC Sirius (optoelectronics for civil and military purposes)
2. OJSC Stankoinstrument (mechanical engineering for civil and military purposes)

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⁵ The existing EU ban on direct or indirect purchase, sale, brokering and assistance in the issuance of, or other dealings with such prohibited financial instruments has been changed slightly to replace the term "**brokering**" with the new term "**investment services**". At the same time, the definition of relevant activities covered by this concept (e.g. portfolio management, investment advice) remains unchanged. We also note that the definition of "**transferable securities**" in Article 1(f) has been amended, to no longer include securities "*giving rise to a cash settlement*". Moreover, the examples given in this definition are now exhaustive rather than illustrative, giving more legal certainty.

⁶ The ban also covers non-EU parties whose proprietary rights are directly or indirectly majority owned by the listed Russian defense and energy companies, or (EU or non-EU) parties acting on behalf or at the direction of such listed or majority-owned entities.

⁷ See Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (latest consolidated version available [here](#)).

3. OAO JSC Chemcomposite (materials for civil and military purposes)
4. JSC Kalashnikov (small arms)
5. JSC Tula Arms Plant (weapons systems)
6. NPK Technologii Maschinostrojenija (ammunition)
7. OAO Wysokototschnye Kompleksi (anti-aircraft and anti-tank systems)
8. OAO Almaz Antey (state-owned enterprise; arms, ammunition, research)
9. OAO NPO Bazalt (state-owned enterprise, production of machinery for the production of arms and ammunition)

The expanded dual-use ban also covers related technical assistance, brokering services, financing and financial assistance (along with other related services). Certain exceptions are made to the new dual-use ban, for example, when items or services are intended for the **aeronautics and space industry**, or the related provision of **technical and financial assistance** when for non-military use/end-users, as well as for **maintenance and safety of existing EU civil nuclear capabilities** for non-military use/end-users. Also, an exemption applies to execution of contracts or agreements concluded before **12 September 2014**.

In addition, the existing EU ban on certain financial services relating to prohibited arms exports has been expanded to include **(re-)insurance** as well.

III. Expanded Asset Freeze and Visa Ban List

The EU has decided to add – through Regulation 961/2014⁸ – another **24 individuals** deemed responsible for actions supporting the destabilization of Ukraine to the list of parties subject to an asset freeze and visa ban.⁹ The newly listed persons include the new leadership in Donbass, the government of Crimea and Russian decision-makers and one senior business figure.

At the same time, the **legal basis for the EU's asset freeze has been broadened** to allow imposition of asset freezes and visa bans on parties conducting transactions with separatist groups in the Donbass region.¹⁰

The 24 newly added persons (and the reasoning given in Regulation 961/2014 for them being sanctioned) effective **12 September 2014** are:

Individuals

1. Alexander ZAKHARCHENKO (*So-called 'Prime minister' of the so-called 'Donetsk People's Republic'*)
2. Vladimir KONONOV / aka 'Tsar' (*So-called 'Defence minister' of the so-called 'Donetsk People's Republic'*)
3. Miroslav Vladimirovich RUDENKO (*Commander of the Donbass People's Militia*)
4. Gennadiy Nikolaiovych TSYPKALOV (*So-called 'Prime Minister' of the so-called 'Lugansk People's Republic'*)
5. Andrey Yurevich PINCHUK (*'State security minister' of the so-called 'Donetsk People's Republic'*)
6. Oleg BEREZA (*'Internal affairs minister' of the so-called 'Donetsk People's Republic'*)
7. Andrei Nikolaevich RODKIN (*Moscow Representative of the so called 'Donetsk People's Republic'*)
8. Aleksandr KARAMAN (*'Deputy Prime Minister for Social Issues' of the so called 'Donetsk People's Republic'*)
9. Georgiy L'vovich MURADOV (*So-called 'Deputy Prime Minister' of Crimea and Plenipotentiary Representative of Crimea to President Putin*)
10. Mikhail Sergeyeovich SHEREMET (*So-called 'First Deputy Prime Minister' of Crimea*)
11. Yuri Leonidovich VOROBIOV (*Deputy Speaker of the Federation Council of the Russian Federation*)
12. Vladimir Volfovich ZHIRINOVSKY (*Member of the Council of the State Duma; leader of the LDPR party*)
13. Vladimir Abdualiyevich VASILYEV (*Deputy Speaker of the State Duma*)

⁸ See [Council Implementing Regulation \(EU\) No 961/2014](#) of 8 September 2014 implementing Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

⁹ The total number of parties listed under original Regulation 269/2014 imposing EU sanctions in respect of actions considered to undermine or threaten the territorial integrity, sovereignty and independence of Ukraine now stands at **119 persons and 23 entities** (see our alert from 31 July 2014 on the previous expansion of this list [here](#)).

¹⁰ See [Council Regulation \(EU\) No 959/2014](#) of 8 September 2014 amending Regulation (EU) No 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

14. Viktor Petrovich VODOLATSKY (*Chairman ('ataman') of the Union of the Russian and Foreign Cossack Forces, and deputy of the State Duma*)
15. Leonid Ivanovich KALASHNIKOV (*First deputy Chairman of the Committee on Foreign Affairs of the State Duma*)
16. Vladimir Stepanovich NIKITIN (*First Deputy Chairman of the Committee on Relations with CIS Countries, Eurasian Integration and Links with Compatriots of the State Duma*)
17. Oleg Vladimirovich LEBEDEV (*First Deputy Chairman of the Committee on Relations with CIS Countries, Eurasian Integration and Links with Compatriots of the State Duma*)
18. Ivan Ivanovich MELNIKOV (*First Deputy Speaker, State Duma*)
19. Igor Vladimirovich LEBEDEV (*Deputy Speaker, State Duma*)
20. Nikolai Vladimirovich LEVICHEV (*Deputy Speaker, State Duma*)
21. Svetlana Sergeevna ZHUROVA (*First Deputy Chairman of the Committee on Foreign Affairs, State Duma*)
22. Aleksey Vasilevich NAUMETS (*Major-general of the Russian Army*)
23. Sergey Viktorovich CHEMEZOV (*Known close associate of President Putin, member of the Supreme Council of 'United Russia' and holder of senior positions in State-controlled firms (e.g. Rostec conglomerate)*)
24. Alexander Mikhailovich BABAKOV (*State Duma Deputy, Chair of the State Duma Commission on Legislative Provisions for Development of the Military-Industrial Complex of the Russian Federation*)

Under the asset freeze, all funds and economic resources belonging to, or controlled by, the listed parties and that fall under EU jurisdiction (e.g. are held by EU banks) will be frozen. Furthermore, no funds or economic resources (in the broad sense) may be made available – directly or indirectly – to or for the benefit of the listed persons by parties falling under EU jurisdiction.

IV. Scope of the Sanctions

The geographic scope of the new EU sanctions remains the same as before, applying in the following situations: within the EU territory; to nationals of EU Member States (regardless of whether they are inside or outside EU territory); on board vessels and aircraft under Member State jurisdiction; to companies incorporated or registered under the law of a Member State and to other companies in respect of business done in whole or in part in the EU.