

VAN BAEL & BELLIS



**The European Union adopts 10th
sanctions package in response
to the Russian aggression
against Ukraine**

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On 24 February 2023, the European Union adopted and published its 10th package of sanctions against Russia and those that support it in its illegal aggression against Ukraine.

10th EU Sanctions Package

Amendments to Regulation 269/2014	Amendments to Regulation 833/2014
Regulation 2023/426 Implementing Regulation 2023/429	Regulation 2023/427

For a detailed survey of the previous nine EU sanctions packages: [Van Bael & Bellis Guide to the EU Sanctions against Russia](#).

TARGETED SANCTIONS

The 10th sanctions package includes a new series of listings in [Annex I](#) to Regulation [269/2014](#), predominantly targeting members of the Russian Government and military, figures of the pro-Kremlin civil society and press, and representatives of the proxy authorities installed by Russia in the occupied territories of Ukraine. Significantly, three new banks are now subject to EU targeted sanctions: Alfa Bank (of which the major shareholders were already listed since March 2022), Rosbank, and Tinkoff Bank JSC. The list in [Annex I](#) to Regulation [269/2014](#) now comprises almost 1500 individuals and 208 legal persons or entities.

TRADE SANCTIONS

Expansion of the export restrictions

The 10th sanctions package expands the list of goods which may not be sold, supplied, transferred or exported (and in respect of which no related services may be provided) to a person or entity in Russia or for use in Russia. Notably, rare earths and compounds are now included as category X.C.IX.012 in [Annex VII – Part A](#), while certain electronic integrated circuits, photographic cameras, and other electrical/magnetic components are now listed in [Annex VII – Part B](#).

The new sanctions package expands the list of goods which could contribute in particular to the enhancement of Russian industrial capacities, and may not be sold, supplied, transferred or exported (and in respect of which no related services may be provided) to a person or entity in Russia or for use in Russia: [Annex XIII – Part C](#) covers goods classifying under certain codes in the Common Nomenclature (“CN”) Chapters 72, 73, 76, 84, 85, and 90.

A winding down period applies, allowing the execution until 27 March 2023 of contracts concluded before 26 February 2023, or of ancillary contracts necessary for executing those contracts.

However, the winding down period does not apply in respect of the sanctions affecting goods falling under CN codes 7208 25, 7208 90, 7209 25, 7209 28, and 7219 24.

The 10th sanctions package also includes, in the list of goods and technology suited for use in aviation or the space industry, turbojets and turbopropellers classifying under certain CN Heading 8411 ([Annex XI – Part D](#)) which may not be sold, supplied, transferred or exported (and in respect of which no related services may be provided) to a person or entity in Russia or for use in Russia. A winding down period applies, allowing the execution until 27 March 2023 of contracts concluded before 26 February 2023, or of ancillary contracts necessary for the execution of those contracts.

Expansion of the import restrictions

The 10th sanctions package expands the list of goods which may not be sold, supplied, transferred or exported (and in relation to which no services may be provided) to a person or entity in Russia or for use in Russia. That list now includes petroleum jelly, paraffin wax, petroleum coke and other residues of petroleum oil, bitumen and asphalt, and other bituminous mixtures ([Annex XXI – Part C](#)). A winding down period applies, allowing the execution until 27 May 2023 of contracts concluded before 26 February 2023, or of ancillary contracts necessary for the execution of those contracts. For goods classifying under CN codes 2803 (carbon blacks) and 4002 (synthetic rubber and factice derived from oils), the 10th sanctions package introduces import quotas, as follows:

	CN 2803	CN 4002
Period	Quantity in metric tonnes	
25 February 2023 – 30 June 2024	752 475	569 973

Restriction on transit through the territory of Russia of firearms and dual-use goods and technology

It is now prohibited to transit through the territory of Russia dual-use goods and technology, as well as firearms, their parts and essential components and ammunition. This prohibition seeks to prevent the circumvention of existing export restrictions. Narrow exceptions and derogations grounds apply in respect of dual-use goods and technology, which mirror those applying to the export restrictions.

New exemptions and derogation grounds in relation to prohibited transactions with Russian State-owned enterprises

The 10th sanctions package introduces a new exemption from the prohibition on transacting with Russian State-owned enterprises listed in [Annex XIX](#) (or entities owned for more than 50% by those enterprises or acting on their behalf) covering the provision of pilot services to vessels in innocent passage as defined by international law which are necessary for reasons of maritime safety. Furthermore, the exemption allowing for transactions strictly necessary for the winding down of a joint venture or a similar legal agreement concluded with entities listed in [Annex XIX](#) before 16 March 2022 (or entities owned for more than 50% by those enterprises or acting on their behalf) is extended to apply until 31 December 2023. National competent authorities may issue authorisations, under those conditions as they deem appropriate, for transactions which are strictly necessary for the divestment and withdrawal by 31 December 2023 from EU companies by the entities listed in [Annex XIX](#) or their EU subsidiaries.

Clarification of the concept of “import” under Regulation 833/2014

The 10th sanctions package clarifies that goods covered by an import prohibition which are physically in the European Union may be lawfully released for the purposes of a customs procedure under the [Union Customs Code](#) (“UCC”) provided that the goods have been presented for customs controls to the customs authorities before the entry into force or applicability date of the respective import prohibitions, whichever is latest. The clarification applies with retroactive effect to goods which, prior to 26 February 2023, were presented to customs and stopped in the application of an import prohibition.

This amendment reflects the Commission [guidance](#) that the conditions for determining whether an “import” has taken place should be assessed in function of the time at which the goods are brought into the European Union and presented to customs, regardless of the subsequent customs procedure under which these goods are placed.

In any event, customs authorities may not allow the release of the goods if they have reasonable grounds to suspect circumvention and may not authorise the re-export of the goods to Russia. Payments in relation to those goods “shall be consistent with the provisions and objectives” of Regulation 833/2014, “in particular the prohibition on purchasing”. In practice, this means that the goods must be paid for before the date the relevant restriction comes into force, because the payment of contractual consideration forms part of the act of “purchasing” which is covered by import and purchase prohibitions.

SERVICES AND OTHER SANCTIONS

Prohibition to provide storage capacity for natural gas

The 10th sanctions package prohibits providing storage capacity in a storage facility, except for the part of liquefied natural gas facilities used for storage, to:

- i. a Russian national, a natural person residing in Russia, or a legal person, entity or body established in Russia;
- ii. a legal person or entity whose proprietary rights are directly or indirectly owned for more than 50% by a legal person, entity or body established in Russia;
- iii. a natural or legal person, entity or body acting on behalf or at the direction of a legal person, entity or body referred to in (i) or (ii).

For the purposes of this restriction, “storage capacity” is defined, in accordance with Regulation [715/2009](#), as any combination of space (the volume of gas which a user of a storage facility is entitled to use for the storage of gas), injectability (the rate at which the storage facility user is entitled to inject gas into the storage facility) and deliverability (the rate at which the storage facility user is entitled to withdraw gas from the storage facility). A “storage facility” is defined by Directive [2009/73](#) as a facility used for the stocking of natural gas and owned and/or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions.

Russian nationals may not serve on governing bodies of EU critical infrastructure companies

Russian nationals may no longer serve on governing bodies of Member States' critical entities or of entities owning/operating critical infrastructure. A "critical entity" is an entity that has been identified as such by a Member State pursuant to Article 6 of Directive [2022/2557](#) (i.e., entities operating in that Member State, providing one or more essential services and which would be negatively impacted in the provision of those services by a disruptive incident). "Critical infrastructure" refers to (part of) an asset, a facility, equipment, a network or a system, which is necessary for providing a service which is crucial for maintaining vital societal functions, economic activities, public health and safety, or the environment. EU/EEA/Swiss and Russian dual-nationals are in principle outside the scope of this prohibition.

Derogation from the horizontal services prohibition

To further facilitate EU operators' divestment from the Russian market, the 10th sanctions package introduces a temporary derogation from the prohibition on providing accounting, auditing, or tax consulting services, business and management consulting or public relations services, architectural and engineering services, legal advisory services, IT consultancy services, market research and public opinion polling services, technical testing and analysis services, and advertising services, to entities established in Russia.

National competent authorities may authorise the provision of those services until 31 December 2023 where those services are strictly necessary for the divestment from Russia or the winding down of business activities in Russia, provided that the following conditions are fulfilled:

- i. the services are provided to and for the exclusive benefit of the legal persons, entities or bodies resulting from the divestment; and
- ii. the absence of reasonable grounds to consider that the services might be provided, directly or indirectly, to the Government of Russia or a military end-user or having a military end-use in Russia.

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