

Further EU Sanctions Against Russia: Council Adopts 12th Package

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On December 18, 2023, the European Union (the “EU”) imposed a number of new economic and individual restrictive measures in relation to Russia (the “12th Package”).¹

This alert memorandum highlights the 12th Package’s key measures, including:

- Additional designations and a tightening of the asset-freeze framework;
- A new prohibition on the provision of enterprise management and industrial design and manufacturing software, and prohibitions on ancillary services;
- Further trade restrictions (e.g., additions to the lists of restricted goods/technology);
- A phase-out of certain exemptions to the professional services ban;
- An extension of the derogation regarding divesting from, or winding-down business in, Russia; and
- Tighter anti-circumvention controls.

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¹ See Council Regulation (EU) 2023/2873 (accessible [here](#)), amending Regulation (EU) No 269/2014, Council Implementing Regulation (EU) 2023/2875 (accessible [here](#)), implementing Regulation (EU) No 269/2014, and Council Regulation (EU) 2023/2878 (accessible [here](#)) amending Regulation (EU) No 833/2014.



I. Asset freeze

As part of the 12th package, over 140 additional persons/entities were designated and, consequently, became subject to sanctions. While these additional designations mostly concern the Russian military sector, they also include a number of key economic actors, including, for example, AlfaStrakhovanie Group (which may impact a number of existing insurance and reinsurance contracts).

The 12th Package also introduces several changes addressing the on-going forced transfers of Russian entities previously owned/controlled by EU entities to Russian management or other Russian buyers. For example, it:

- extends the listing criteria to cover persons benefitting from the compulsory (including through law or other actions of public authority) transfer of ownership of, or control over, entities established in Russia that were previously owned or controlled by EU entities;² and
- introduces a basis for authorisations that would, where the ownership or control by a Union legal person of that entity has been compulsorily transferred by the Russian Government, enable the payment of agreed adequate compensation to EU persons.

II. Further trade restrictions

The EU also introduced a number of new, or expanded, trade restrictions. For example, it:

- Introduces a prohibition on the direct or indirect import, purchase or transfer of diamonds from Russia;
- expands the list³ of items which are restricted for export to Russia on the basis that they contribute to Russia's military and technological enhancement or

to the development of its defence and security sector;

- expands the list⁴ of items which are restricted for export to Russia on the basis that they contribute to the enhancement of Russian industrial capacities;
- introduces further restrictions on imports of goods which generate significant revenues for Russia;⁵
- adds 29 new entities to the list of legal persons, entities and bodies on which tighter export restrictions regarding dual-use goods and technology, as well as goods and technology which might contribute to the technological enhancement of Russia's defence and security sector, are imposed.

III. New prohibition on enterprise management and industrial design and manufacturing software

A key restriction introduced by the 12th Package is the prohibition on the provision of:

- software for the management of enterprises, meaning systems that digitally represent and steer all processes happening in an enterprise (e.g., enterprise resource planning, customer relationship management, business intelligence, supply chain management, enterprise data warehouse, computerized maintenance management system, project management software, product lifecycle management, and typical components of the above-mentioned suites, including software for accounting, fleet management, logistics and human resources);
- software for industrial design and manufacture, used in the areas of architecture, engineering, construction, manufacturing, media, education and entertainment (e.g., building information modelling, computer aided design, computer-aided

² We reported on such transfers in respect of Carlsberg and Danone ([here](#)), as well as Uniper and Unipro ([here](#)), in 2023.

³ Council Regulation (EU) 2023/2878, Article 1(30) and Annex II (amending Annex VII of Regulation 833/2014).

⁴ Council Regulation (EU) 2023/2878, Article 1(32) and Annex IV (amending Annex XXIII of Regulation 833/2014).

⁵ Council Regulation (EU) 2023/2878, Article 1(31) and Annex III (amending Annex XXI of Regulation 833/2014).

manufacturing, engineer to order, typical components of above-mentioned suites).⁶

Consistent with prior trade restrictions, the 12th Package also prohibits providing technical assistance, brokering services, and financing or financial assistance related to these. This new restriction may overlap with the existing restriction on the provision of professional services, including IT-consultancy services.

The new prohibitions are subject to certain listed exemptions (e.g., termination of prior contracts,⁷ or, until 20 June 2024, provision for the exclusive use of Russian subsidiaries of EU, EEA or partner-state⁸ persons) and bases for authorisations (e.g., provision for the exclusive use of Russian subsidiaries of EU, EEA or partner-state persons). That said, commercial provision of such software and related services to Russia is, generally, restricted, including to Russian subsidiaries of EU or other partner-country persons.

IV. Expiry date of intragroup exemption for the professional services ban

A further key development is that the several prohibitions against the provision of professional services⁹ will no longer be subject to a permanent exemption for services intended for the exclusive use by Russian subsidiaries of EU, EEA or partner-state persons.¹⁰

Instead, such provision of services will only be exempted until 20 June 2024. Following that date, EU persons that seek to provide services for the exclusive use by Russian subsidiaries of persons incorporated under the laws of an EU or EEA Member State (or a

partner country) will need to apply to the national competent authority for an authorisation.

V. Extension of derogation regarding divesting from, or winding-down business in, Russia

A number of the EU sanctions allow for an authorisation to be obtained from national competent authorities where the relevant prohibited acts are strictly necessary for the divestment from Russia or the wind-down of business activities in Russia, subject to certain further conditions.

Prior to the 12th Package, any such authorisation would have required the relevant divestment or withdrawal to occur by 30 September 2023, 31 December 2023, or 31 March 2024, depending on the specific prohibition in question. The 12th Package introduces amendments extending the timeframe for obtaining these authorisations, so that the relevant divestment/wind-down now needs to occur by 30 June 2024, 30 September, or 31 December 2024 (as applicable).

VI. Tighter anti-circumvention controls

Lastly, the 12th Package tightens anti-circumvention provisions in several respects. For example, it:

- Introduces an obligation for Member States to identify and trace funds and economic resources belonging to, or owned, held or controlled by, sanctioned persons with a view to preventing or detecting instances of attempted or actual breaches or circumvention of sanctions;

⁶ Council Regulation (EU) 2023/2878, Articles 1(22) (inserting new Article 5n(2b) in Regulation 833/2014) and 1(38) (inserting new Annex XXXIX to Regulation 833/2014).

⁷ The new prohibition would not apply to the sale, supply, transfer, export or provision of software that is strictly necessary for the termination by 20 March 2024 of contracts concluded before 19 December 2023, or of ancillary contracts necessary for the execution of such contracts.

⁸ For these purposes, the list of partner countries, set out in Annex VIII to Regulation 833/2014, includes: the United States of America, Japan, the United Kingdom, South Korea, Australia, Canada, New Zealand, Norway and Switzerland.

⁹ E.g., accounting, auditing, bookkeeping or tax consulting services, business and management consulting, 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, advertising services, provision of software for the management of enterprises and software for industrial design and manufacture (and related technical assistance, brokering services, financing or financial assistance, and other related services).

¹⁰ Strictly speaking, the exemption is broader than intragroup, as it allows any EU person to provide the listed professional services to a Russian subsidiary of any other EU, EEA or partner-state person, but it has been used primarily for intragroup purposes.

- Requires EU entities with more than 40% ownership by Russian persons to report quarterly payments out of the EU in excess of EUR 100,000;
- Introduces additional due diligence and information disclosure requirements for actors involved in oil and oil products shipping and services; and
- Introduces an obligation, applicable as of 20 March 2024 (but then also to agreements already in existence), that requires exporters, when selling, supplying, transferring or exporting to a third country certain sensitive goods and technology, to contractually prohibit re-exportation to Russia and for use in Russia.

The increasingly stricter approach to anti-circumvention measures is also reflected in recently issued Commission guidance¹¹ which states that the sale of shares in a Russian subsidiary that holds certain sensitive goods and technologies to a Russian buyer should be considered an indirect sale, supply or transfer of said goods and may, accordingly, require an authorisation.

VII. Implications

The measures introduced by the 12th Package are broad and cut across many areas and industries which demonstrates the Commission's attempts, in line with the other sanctions authorities, to close the gaps and address circumvention concerns. EU businesses with Russian subsidiaries should carefully focus on the subsidiary exemption phase-out and assess the need to apply to the competent authorities for authorisations, especially as regards the new prohibition on providing enterprise management and industrial design and manufacturing software as well as existing professional services restrictions.

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¹¹ European Commission, Frequently asked questions on divestment from Russia concerning sanctions adopted following Russia's

military aggression against Ukraine and Belarus' involvement in it (22 December 2023), accessible [here](#).