

BANKING & FINANCE NEWSFLASH



EU sanctions' effects against Russia on the banking sector in Luxembourg

The European Union has adopted a series of financial restrictive measures against the persons and entities involved in actions threatening the integrity and sovereignty of Ukraine.

In a circular letter published on 1 March 2022, the Commission de Surveillance du Secteur Financier ("CSSF") reminded that European regulations are binding in their entirety and directly applicable in national law and that professionals of the financial sector, including banking institutions, must comply with them while putting in place the necessary controls and measures.

Before looking at the possible sanctions for non-compliance with these new measures, we will first summarize the financial restrictive measures in question.

WITH REGARD TO THE FINANCIAL RESTRICTIVE MEASURES

- **Extension of the assets freeze**
- **Prohibition of financing**
- **Prohibition to provide specialised financial messaging services**

WITH REGARD TO THE POTENTIAL SANCTIONS IN CASE OF NON- COMPLIANCE WITH THESE NEW MEASURES

With regard to the financial restrictive measures

All of these EU financial restrictive measures can be classified into 3 broad categories:

EXTENSION OF THE ASSETS FREEZE

Regulation (EU) N°269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine has been amended to add a number of individuals to the list in Annex I, including:

- 351 members of the State Duma who voted in favor of Russia's recognition of Donetsk and Luhansk;
- 22 individuals, such as members of the government, oligarchs, senior officers and individuals responsible for conducting the disinformation war against Ukraine;
- 99 individuals, including the Russian President and Minister of Foreign Affairs, members of the National Security Council of the Russian Federation who supported the recognition of Donetsk and Luhansk, other members of the Russian State Duma, as well as people who facilitated the Russian military aggression from Belarus;
- 26 individuals, including oligarchs, members of the government, high-ranking military officers and businessmen active in the oil, banking and financial services;
- 22 high-ranking members of the Belarusian army.

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PROHIBITION OF FINANCING

• Towards Russia

Regulation (EU) No 33/20148 has been amended by imposing new restrictive measures prohibiting the financing of Russia, its government and its central bank, including a prohibition on transactions related to the management of the reserves as well as the assets of the Central Bank of Russia, including transactions with any legal person, entity or body acting on behalf of, or at the direction of, the Central Bank of Russia.

• Towards the Ukrainian oblasts of Donetsk and Luhansk

Regulation (EU) 2022/263 published on 23 February 2022 establishes new sanctions regime imposing restrictions on economic relations with the Ukrainian oblasts of Donetsk and Luhansk not controlled by the Ukrainian government.

• Towards Belarus

Regulation (EU) 2022/355 published on 2 March 2022 establishes a new regime of individual and economic sanctions extended to Belarus.

PROHIBITION TO PROVIDE SPECIALISED FINANCIAL MESSAGING SERVICES

Regulation (EU) 2022/345 published on 2 March 2022 provides for a prohibition from 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.”

These measures are mainly aimed at 7 Russian banks, namely Bank Otkritie, Novikombank, Promsvyazbank, Bank Rossiya, Sovcombank, VneshEconBank (VEB), VTB Bank.

With regard to the potential sanctions in case of non-compliance with these new measures

As the European regulations **are directly applicable** in Luxembourg, banks, in the context of their obligations in the fight against money laundering and terrorist financing, must update their procedures and their screening tools without delay. As this is an obligation of result, any failure to update may be subject to sanctions as provided for by the law of 12 November 2004 on the fight against money laundering and terrorist financing.

In accordance with the law of 19 December 2020 on the implementation of restrictive measures in financial matters and CSSF Regulation N°12-02 of 14 December 2012 on the fight against money laundering and terrorist financing, banks must inform the Ministry of Finance and the CSSF, of the execution of each restrictive measure (including attempted transactions) taken in respect of a State, a natural or legal person, an entity or a group subject to restrictive measures in financial matters. At the same time, banks must freeze funds held by persons listed under EU sanctions.

Failure to comply with the restrictive measures adopted shall be punished by **imprisonment for a term of eight days to five years** and a **fine of between 12,500 euros to 5,000,000 euros or by one of these penalties only**. Where the offence has resulted in a substantial financial gain, **the fine may be increased to four times** the amount of the offence.

Therefore, taking into account the possible sanctions in case of non-compliance, it is critical for any bank to put in place a meticulous follow-up of these new restrictive financial measures as well as those that will be taken by the European Union in the future, in order to update its procedures and screening tools.



Please contact our experts in Banking & Finance law, **Nicolas Thieltgen** and **Anne-Marie Ka** should you have any questions on these measures and their possible impact on your activities.



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