

Swiss sanctions against Russia – Implementation of the EU 11th Sanctions Package

The Swiss Federal Council continues aligning the Swiss sanctions regime to the European Union (EU) sanctions against Russia. On August 16, 2023, the Swiss Federal Council adopted further measures against Russia, in line with the 11th sanctions package adopted by the EU. This follows a move on June 28, 2023 where the Federal Department of Economic Affairs, Education and Research (DEFR) added over a hundred individuals and entities to the Swiss sanctions list. The latest measures impose additional commercial and financial sector restrictions, and delineate exceptions in the humanitarian sector, with certain safeguards for Swiss economic interests in specific scenarios.

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1. Introduction

On August 16, 2023, the Swiss Federal Council adopted further sanctions against Russia with a view to mirroring the latest measures imposed by the EU on June 23, 2023. The corresponding amendments to the Ordinance on measures in connection with the situation in Ukraine ("UKRO") entered into force on August 16, 2023 at 18:00 CEST.

A free English translation of UKRO as of August 16, 2023 and a redline against the version of March 29, 2023 implementing the 10th sanctions package

are available, respectively [here](#) and [here](#).

2. Key elements

The new measures include in particular the following:

- **Financial Restrictions:** A noteworthy amplification in the financial sanctions involves the restriction on selling securities issued after August 6, 2023 (Article 23 UKRO) to Russian nationals and residents, as well as Russian entities and businesses, irrespective of the currency they are denominated in. This builds upon the earlier restriction which was limited to securities denominated in Swiss francs or currencies of EU member states issued after April 12, 2022.
- **Asset freeze:** Newly added Article 15 (8quater) UKRO offers an exemption allowing the conversion of securities certificates linked to Russian assets deposited with the Russian National Settlement Depository (NSD), with a view of allowing a sale of these securities. A significant point of deliberation is the term "for the purpose of sale", prompting questions on the extent of the Swiss financial intermediary's duty to ensure actual sales of the securities by the client. It remains ambiguous whether a mere confirmation from the client is sufficient, or if stricter controls are necessary. Nevertheless, financial intermediaries must, in any event, obtain an authorization from the State Secretariat for Economic Affairs (SECO), which will then determine if specific confirmations or other criteria are required.
- **Export restrictions:** The list of entities directly supporting Russia's military and industrial complex has been expanded with the addition of 87 new entities. These entities are now subject to heightened export restrictions, particularly for dual-use and advanced technology items. Alongside the previously listed Russian and Iranian entities, the updated list now includes entities registered in third countries that have delivered prohibited goods to Russia (Annexe 2 UKRO).
- **Import restrictions:** The import ban on Russian revenue-generating goods has been extended to incorporate goods that were previously subject to a separate ban on coal imports (Article 14c UKRO). Article 12 UKRO has thus been abolished.
- **Intellectual property and trade secrets:** It is now prohibited to grant intellectual property rights and disclose trade secrets related to various goods to Russia and, in certain cases, to Ukraine. This measure aims to prevent goods, which are not permitted for export to Russia and/or Ukraine, from being produced within Russian and/or Ukrainian territories (Articles 2a (3bis), 4 (2bis), 5 (2bis), 9 (5bis), 9a (2bis), 9b (2bis), 10 (2bis), 11 (2bis), 11a (2bis), 14b (1ter) UKRO).
- **Transit restrictions:** Bans on transiting specific goods through Russia have been widened to include items like jet fuel, fuel additives, and those applicable in the aerospace sector (Articles 5 (1bis), 9 (1bis), 9b (1bis) UKRO).
- **Humanitarian exemptions:** In line with the EU's provisions, the Federal Council has enacted possibilities for granting exemptions in the humanitarian field and for the purpose of facilitating the process of withdrawing Swiss investments from Russia (e.g. Articles 9b (2ter), 30a (2bis), 30c (3) UKRO).
- **Anti-circumvention measures:** The EU has formulated a legal basis to deter sanction evasion, which targets exports to third countries of dual-use goods and others that amplify Russia's military-tech capabilities. The Federal Council, while not having adopted the

corresponding provisions, has expressed its intention to align should the EU activate it.

Of note, on May 2, 2023, the SECO released an updated "frequently asked questions" (FAQ) document to facilitate the understanding of the sanctions regime against Russia, particularly addressing corporate actions related to frozen accounts and the acceptance of payments from non-sanctioned clients of sanctioned banks. Additionally, with respect to Article 28e UKRO, which outlines the prohibition on provision of certain services to the Government of the Russian Federation or to legal persons, entities established in the Russian Federation, the FAQ clarifies the scope of the exemption provided for in Article 28e (2) UKRO.

The SECO FAQ was last updated on September 1, 2023. Among others, the interpretation of Article 28b UKRO has been clarified so as to exclude from its scope the acquisition on the secondary market of existing bonds issued by companies subject to the restrictions of Article 28b UKRO.

A free English translation of the FAQ and a redline against the version of May 2, 2023 are available, respectively [here](#) and [here](#).

3. Impact & expected developments

Due to the far reaching effects of the adopted prohibitions and the limited official guidance, the implementation of new measures raises considerable difficulties in practice. In order to mitigate risks and given the multiplicity of sanctions regimes, with differing scopes, guidance and consequences in case of inadvertent breach, Swiss businesses often opt for either a broader reading of sanctions, or seek specific clarifications from the SECO on a case-by-case basis, a process which is time consuming.

Sanctions are further amended and adapted on an ongoing basis. Given the importance of the topic and the potentially serious legal and reputational consequences of a breach, it is essential to keep abreast of the latest measures and any guidance issued by the Swiss government. We are monitoring these developments closely.

At this juncture, the introduced restrictions raise a number of interpretation and implementation questions. Some of those questions are expected to be clarified based on EU sanctions guidance and FAQs, if any, whereas other issues will require formal confirmation from SECO. We are working with our clients to clarify the expectations of competent authorities and to find practical solutions for an efficient operational implementation of the sanctions framework.

4. Useful links

Given the fluid nature of the sanctions, we enclose some relevant resources which we trust will be of assistance for monitoring the developments:

1. Swiss Sanctions

UKRO, as amended on August 16, 2023

- Official publication:
- [UKRO German version](#)

- [UKRO French version](#)
- [Free English translation](#)
- [Redline against the version of March 29, 2023 \(English\)](#)

SECO clarifications on application of 12, 13, 14, 14a, 14c, 15, 16, 20, 21, 23, 25 28b, 28d and 28e UKRO, as amended on September 1, 2023

- Official publication:
 - [German version](#)
 - [French version](#)
 - [Free English translation](#)
 - [Redline against the version of May 2, 2023 \(English\)](#)

2. EU Sanctions

- Consolidated texts of sanctions regulations
 - [Consolidated text of Regulation \(EU\) No 833/2014 \(Russia\)](#)
 - [Consolidated text of Regulation \(EU\) No 269/2014 \(Ukraine territorial integrity\)](#)
- Compilation of frequently asked questions regarding EU sanctions available here: [link](#).

Please do not hesitate to contact us in case of any questions.

You may reach out to your usual contact at our firm or direct any sanction-specific queries to our dedicated task force at sanctions@lenzstaehelin.com

Legal Note: The information contained in this Smart Insight newsletter is of general nature and does not constitute legal advice.

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