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Russia Responds to International Sanctions – An Overview of Russian Countersanctions and Further Measures against So-Called “Unfriendly States”

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In our previous client alerts *“US and Allies Announce Sanctions on Russia and Separatist Regions of Ukraine”*, *“United States Responds to the Crisis in Ukraine with Additional Sanctions and Export Controls”* and *“Russia’s Suppression of the Media Violates Its International Law Obligations”*, as well as our “*The World Reacts to the Crisis in Ukraine*” webcast series offered on *March 4, 2022*, *March 10, 2022* and *March 22, 2022*, we noted that Russia has imposed significant “countersanctions” against “unfriendly countries” and companies that are trying to comply with the U.S., UK, EU and other sanctions regimes against Russia and Belarus. These countersanctions can place companies that operate globally and that are committed to complying with all applicable laws in a very difficult position and may end up hastening the withdrawal of more companies from Russia.

This client alert discusses the most significant measures Russia has taken in order to counter international sanctions imposed against it.[1]

Measures against so-called “Unfriendly States”

Accurately described as *countersanctions in the narrow sense*, a significant category of the Russian measures is directly related to the sanctions against Russia imposed by other countries. The Russian Government adopted a list of such “*unfriendly states*”, which currently includes the United States, all EU member states, Albania, Andorra, Australia, Canada, Iceland, Japan, Liechtenstein, Micronesia, Monaco, Montenegro, New Zealand, North Macedonia, Norway, San Marino, Singapore, South Korea, Switzerland, Taiwan, Ukraine and the UK.[2]

As of April 29, 2022, the following measures have been adopted by Russia against so-called “*unfriendly states*”:

- Russian debtors are allowed to pay off their large debts (i.e., debts exceeding 10 million rubles = approx. 140,000 USD in value) to non-Russian creditors based in *“unfriendly states”* in Russian rubles (instead of otherwise applicable currency) according to the official exchange rate of the Bank of Russia as of the first day of the respective month.[3]

- Buyers of Russian natural gas based in *“unfriendly states”* (or in cases when gas is supplied to an “unfriendly state”) are obliged to pay for gas in Russian rubles:[4]
    - Non-compliance with this requirement could lead to a halt to further supplies.

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    - The requirement is somewhat mitigated by the special payment procedure, according to which buyers of gas must open accounts in both Russian rubles and non-ruble currency at *Gazprombank* and initially pay for gas in non-ruble currency, which is then sold by *Gazprombank* on the *Moscow Exchange* against Russian rubles credited to the buyer's ruble account and subsequently paid to the seller of gas.

- Russian residents are prohibited, without a prior clearance by the *Government Commission for Control over Foreign Investments*, from conducting the following transactions with foreigners based in "*unfriendly states*" and persons controlled by such foreigners:
    - Providing loans in rubles;
    - Transferring ownership of securities; or
    - Transferring ownership of real estate.[5]
- The compensation to be paid to rightholders from "*unfriendly states*" for the use of an invention, utility model or industrial design in cases where such protected subject-matter may be used without their consent shall amount to 0 % of the actual proceeds from the production and sale of goods, performance of works or rendering of services for which the respective invention, utility model or industrial design has been used.[6]
- Any money transfers from Russian accounts of nonresidents (companies or individuals) from *"unfriendly states"* to their accounts outside of Russia are suspended for six months.[7]
- Companies from *"unfriendly states"* are prohibited from buying any non-ruble currency in Russia.[8]
- Russian state companies subject to sanctions by *"unfriendly states"* are allowed to refrain from publishing information on their public procurement activities and their suppliers.[9]
- Until December 31, 2022, Russian banks and financial institutions are allowed to refrain from publishing certain information in order to avoid sanctions of "unfriendly states," in particular as regards their ownership and control structure, members of management bodies and other officers, as well as corporate restructuring.[10]
- Until December 31, 2022, Russian insurance companies are prohibited from entering into contracts with insurance and reinsurance companies and insurance brokers from *"unfriendly states"*.[11]
- Several top officials of the United States, EU, UK and other countries with "unfriendly state" status are banned from entering Russia.

Further Countermeasures

In addition to the countersanctions in the narrow sense as described above, Russia has taken numerous further measures which do not specifically target countries that have imposed sanctions against Russia. Such *countersanctions in the broad sense* include measures generally taken to mitigate the effects of international sanctions on the Russian economy as well as to stifle free expression and limit media coverage that is critical of the government (on the latter set of measures and their international law implications, see also our previous client alert *"Russia's Suppression of the Media Violates Its International Law Obligations"*).

In particular, Russia has adopted the following measures that are designed to mitigate the effects of international sanctions:

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- Professional brokers in Russia are prohibited from selling securities on behalf of any non-Russian companies or individuals.[12]
- Issuance and trading outside of Russia of depositary receipts representing shares of Russian companies is prohibited, with such Russian companies being obliged to terminate their respective agreements so that the depositary receipts are converted into underlying shares that can be traded only in Russia.[13]
- Russian residents are prohibited from:
    - Depositing non-ruble currency into their accounts in banks abroad;
    - Transferring money using non-Russian electronic payment services without opening an account; and
    - Transferring non-ruble currency to any nonresidents under loan agreements.[14]
- Russian residents participating in foreign trade are obliged to sell 80% of non-ruble currency received through foreign trade contracts beginning February 28, 2022. Non-ruble currency must be sold within three working days of receiving each transfer. This obligation also retroactively applies to all funds received since January 1, 2022.[15]
- Cash exports of non-ruble currency from Russia in an amount exceeding $10,000 in value are prohibited.[16]
- Until September 9, 2022, individuals may withdraw no more than $10,000 in cash from their non-ruble accounts in Russian banks; cash withdrawals exceeding this threshold can be made only in rubles.[17] For resident companies and individual entrepreneurs, this threshold is set to $5,000 to be used only for business trips outside of Russia.[18] For nonresident companies and individual entrepreneurs, cash withdrawals in USD, EUR, JPY and GBP are completely banned.[19]
- Until October 2022, individuals (as long as they are not associated with *"unfriendly states"*) may transfer no more than $10,000 in value per month from their bank accounts in Russian banks to their accounts or accounts of other individuals in banks abroad, and no more than $5,000 in value using payment services without opening an account.[20]
- Until December 31, 2022, Russian residents are prohibited from paying shares in any nonresident companies or making payments to any nonresidents under joint venture agreements, unless they obtain a permit of the Bank of Russia.[21]
- For certain types of contracts with any nonresidents, Russian residents are prohibited from making advance payments exceeding 30% of the sum of their obligations under the contract.[22]
- Parallel imports of certain goods protected by certain IP rights (patents, trademarks, utility models and design patents) are legalized. Lists of such goods are yet to be designated by the Ministry of Industry and Trade.[23]

Additionally, Russia has adopted the following measures that are designed to suppress free expression:

- Amendments to the Russian Criminal Code have been enacted, criminalizing the following activities:
    - Public dissemination of "fake news" about the operations of Russian military or other state bodies abroad (Art. 207.3 of Russian Criminal Code);
    - Public actions aimed at "discrediting" the use of Russian military or other

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state bodies abroad (Art. 280.3 of Russian Criminal Code);

- Calls for the introduction of sanctions against Russia or Russian nationals/companies (Art. 284.2).[24]

- Russian media watchdog *Roskomnadzor* banned numerous independent Russian media outlets due to their reports on Russia's war in Ukraine.

- *Roskomnadzor* further banned several Russian-language media outlets associated with countries that have imposed sanctions against Russia, in particular *Voice of America and Radio Free Europe/Radio Liberty* (U.S.), *BBC* (UK) and *Deutsche Welle* (Germany).

- *Roskomnadzor* further banned the most popular social networks in Russia.

Outlook

While numerous international companies are exiting the Russian market, we expect that further Russian countermeasures will be imposed.

- In particular, the Russian Economic Ministry recently presented a draft bill on the "external administration" of companies closing their Russian businesses.[25]

- Another draft bill stipulates that property of *"unfriendly states"* and of persons associated with such states located in Russia shall be subject to expropriation without compensation.[26]

- A further draft bill proposes to introduce criminal liability for managers of companies and other entities for "abuse of office" committed in Russia for the purpose of compliance with international sanctions against Russia.[27]

- According to another draft bill, which has already been passed by the Russian State Duma, Russian banks shall be prohibited from providing information on clients and their transactions upon request of any non-Russian authorities without prior consent of Russian authorities.[28]

The interaction between international sanctions and Russian countermeasures is creating and will continue to create difficult questions for companies with global operations, especially with touchpoints in Russia. We continue to closely track developments in this area.

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[1] This alert cannot replace Russian local counsel advice on the continuously developing regulatory landscape.

[2] Russian Government's Order No. 430-r of March 5, 2022.

[3] Russian President's Decree No. 95 of March 5, 2022.

[4] Russian President's Decree No. 172 of March 31, 2022.

[5] Russian President's Decree No. 81 of March 1, 2022.

[6] Russian Government's Regulation No. 299 of March 6, 2022.

[7] See Bank of Russia, Press Release of April 1, 2022 (Russian); see also Russian President's Decree No. 126 of March 18, 2022.

[8] Decision of the Board of Directors of the Bank of Russia of April 1, 2022.

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[9] See Meduza of March 8, 2022 (Russian).

[10] Federal Law No. 55-FZ of March 14, 2022.

[11] Federal Law No. 55-FZ of March 14, 2022.

[12] WSJ of February 28, 2022.

[13] Federal Law No. 114-FZ of April 16, 2022.

[14] Russian President's Decree No. 79 of February 28, 2022.

[15] Russian President's Decree No. 79 of February 28, 2022.

[16] Russian President's Decree No. 81 of March 1, 2022.

[17] Bank of Russia, Press Release of March 9, 2022 (Russian); see also Bank of Russia, Press Release of April 8, 2022 (Russian).

[18] Bank of Russia, Press Release of March 10, 2022 (Russian); this restriction is applicable until September 10, 2022 and concerns only cash withdrawals in USD, EUR, JPY and GBP.

[19] Bank of Russia, Press Release of March 10, 2022 (Russian).

[20] Bank of Russia, Press Release of April 1, 2022 (Russian).

[21] Decision of the Board of Directors of the Bank of Russia of April 1, 2022; Russian President's Decree No. 126 of March 18, 2022.

[22] Russian President's Decree No. 126 of March 18, 2022.

[23] Russian Government's Regulation of March 29, 2022 No. 506.

[24] The latter provision criminalizes only Russian citizens and only if the offence has been committed within a year after being subject to an administrative penalty for a similar offence.

[25] Draft bill No. 104796-8, registered at the Russian State Duma on April 12, 2022.

[26] Draft bill No. 103072-8, registered at the Russian State Duma on April 8, 2022.

[27] Draft bill No. 102053-8, registered at the Russian State Duma on April 8, 2022.

[28] Draft bill No. 1193544-7, passed by the Russian State Duma on April 20, 2022.

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