

Newsletter No.

173

Swiss sanctions in relation to the situation in Ukraine

On 10 June 2022, the Swiss Federal Council took the decision to adopt the new EU sanctions against the Russian Federation and Belarus. Amendments to the corresponding ordinances have been adopted by the Swiss Federal Council on 29 June 2022 and came into force on the same day at 6pm. Also, the Federal Department of Economic Affairs, Education and Research (EAER) had already updated the list of sanctioned individuals, companies and entities on 10 June 2022, resulting in the sanctioning of over 100 further individuals and entities.

walderwyss attorneys at law

What are the latest developments of the sanctions regime currently in place in Switzerland?

On **10 June 2022**, the Swiss Federal Council took the decision to adopt the sixth package of EU sanctions directed against the Russian Federation and Belarus on **3 June 2022**. The respective changes were implemented by the Swiss Federal Council's decision of **29 June 2022** to amend the "Ordinance instituting measures in relation to the situation in Ukraine" (*Verordnung über Massnahmen im Zusammenhang mit der Situation in der Ukraine / Ordonnance instituant des mesures en lien avec la situation en Ukraine*) (the **Ukraine Ordinance**), which came into force (unless otherwise indicated herein) on **29 June 2022 at 6pm**.

As a consequence the list of sanctioned individuals and entities as listed in Annex 8 to the Ukraine Ordinance and Annex 13 to the "Ordinance on measures against Belarus" (*Verordnung über Massnahmen gegenüber Belarus / Ordonnance instituant des mesures à l'encontre du Bélarus*) (the **Belarus Ordinance**) have been further expanded by the Federal Department of Economic Affairs, Education and Research (EAER) on **10 June 2022**, resulting in the sanctioning of over 100 further individuals and entities of a current total of some 1,158 individuals and 98 entities.

In addition, this sixth package of sanctions covers new measures in the areas of trade, finance and transport. These include:

- bans on purchase, import, transit and transport to or within Switzerland of crude oil and certain petroleum products from the Russian Federation (to be brought into force progressively in the EU, taking full effect by the **beginning of 2023** following a number of **transitional periods**);
- de-SWIFTing of additional Russian and Belarussian banks (effective as from **21 June 2022**);
- expansion of the list of goods banned for export that could help strengthen the Russian Federation in military and technological terms or to develop its defence and security sector, as well as of the list of economically important goods banned for import (with effect as from **10 June 2022, at 6pm**);
- a ban on the provision of audit, tax and business consulting and similar services (effective as from **29 June 2022, at 6pm**);
- clarifications regarding the ban on the provision of services to trusts (effective as from **29 June 2022, at 6pm**).

Newly sanctioned entities and individuals

As a result of the amendments to Annex 8 to the Ukraine Ordinance and Annex 13 to the Belarus Ordinance, which entered into force on **10 June 2022 at 6pm**, some **further 100 individuals and entities** are now subject to financial sanctions and, for those individuals, travel restrictions. Assets in Switzerland belonging to these individuals must be frozen and reported to the Swiss State Secretariat for Economic Affairs (**SECO**). These changes reflect the EU's latest changes in respect of sanctioned individuals and entities published by the European Council on **3 June 2022**. The newly sanctioned individuals include military personnel, individuals active in the fields of politics and

communication/propaganda, and certain oligarchs and their family members. Switzerland's list of sanctioned entities and individuals fully mirrors that of the EU.

Amendments to the Ukraine Ordinance

The amended Ukraine Ordinance has been published on **29 June 2022** and contains additional commercial and financial restrictions.

As a result, Switzerland has now implemented most of the new EU measures against the Russian Federation. This excludes the EU bans concerning the award of public contracts to Russian nationals and organisations or entities

established in Russia. On **27 April 2022**, the Federal Council instructed the competent bodies to carry out the necessary clarifications and to report back on this measure. On **29 June 2022**, the Swiss Federal Council took note of this report and instructed the EAER to submit a corresponding amendment to the Ordinance on measures in connection with the situation in Ukraine by the **end of August 2022**.

Commercial restrictions

1. Import ban regarding solid fossil fuels

On **13 April 2022**, the Swiss Federal Council took the decision to adopt the EU

sanctions decided against the Russian Federation and other restrictive measures against Belarus on **8 April 2022**, as implemented by the Swiss Federal Council's decision of **27 April 2022** to amend the Ukraine Ordinance.

One of the then new measures related to the ban on the purchase, import, transit and transport of **coal and other solid fossil fuels** listed in Annex 22 to the Ukraine Ordinance, originating in or exported from the Russian Federation.

Furthermore, the Ukraine Ordinance foresaw a corresponding prohibition to provide services of any kind (including financial services, technical assistance, brokering services, or otherwise the providing of financial means). However, as outlined in our previous Newsletter released on 2 May 2022 (see [here](#)), according to the text of the Ukraine Ordinance then in force, the latter prohibition was expressed to apply in relation to coal and other solid fossil fuels originating in or exported from the Russian Federation in general rather than to such coal and other solid fossil fuels listed in Annex 22 to the Ukraine Ordinance.

The text of the Ukraine Ordinance has now been corrected and expressly refers to the ban on such services in relation to coal and other fossil fuels listed in Annex 22 to the Ukraine Ordinance, originating in or exported from the Russian Federation, mirroring the corresponding prohibition in place in the EU.

2. Import ban on crude oil and certain petroleum products

The purchase – when the delivery is due in Switzerland – as well as the import, transit and transport in or through Switzerland of **crude oil and certain petroleum products** listed in Annex 24 to the Ukraine Ordinance, originating in or exported from the Russian Federation, are prohibited.

This is accompanied by a ban on the provision of related **services of any kind**,

including financial services, technical assistance, brokering services, or otherwise the providing of financial means for the purchase – when the delivery is due in Switzerland – the import, the transit and transport in or through Switzerland or such goods.

The above prohibitions do not apply, however, to (a) crude oil transported by water and other petroleum products listed in Annex 24 to the Ukraine Ordinance when those goods are (i) only **transiting through the Russian Federation** and (ii) that their **owners are non-Russian** and to (b) crude oil and petroleum products listed in Annex 24 to the Ukraine Ordinance originating in or exported from the Russian Federation and which are **legally imported in a member State of the EU**. The latter exception reflects the fact that Switzerland imports Russian crude oil and petroleum products from the EU and also takes into account the **various transitional periods applicable in the EU** in view of bringing these prohibitions into force progressively until being fully effective by **early 2023**.

The Ukraine Ordinance further provides details of the operations that are not covered by the above prohibitions depending on the dates of both the underlying contract and performance thereof.

3. Ban on services related to the transport of crude oil and certain petroleum products

The providing of financial services, technical assistance, brokering services, or otherwise the providing of financial means in connection with the transport outside Switzerland or the EU of crude oil and petroleum products listed in Annex 24 to the Ukraine Ordinance originating in or exported from the Russian Federation are prohibited, unless these goods are (i) only **transiting through the Russian Federation** and (ii) that their **owners are non-Russian**.

These prohibitions do not apply to operations governed by contracts entered into

before **30 June 2022** and performed until **5 December 2022**.

4. Expanded ban goods which generate significant revenues for the Russian Federation (“economically important goods”)

Annex 20 to the Ukraine Ordinance, listing the goods which are deemed to be **economically important** for the Russian Federation has been amended with effect as of **10 June 2022, 6pm** and includes amongst others, alcoholic drinks with less than 80% alcohol content.

5. Expanded ban on export of certain goods which contribute to the Russian Federation's military and technological enhancement or the development of the defence and security sector

Annex 1 to the Ukraine Ordinance, listing the goods which are deemed to **contribute to the Russian Federation's military and technological enhancement or the development of the defence and security sector** has been amended with effect as of **10 June 2022, 6pm** and is available on SECO's website.

Financial restrictions

1. New exceptions to asset freeze

New exceptions to the freezing of assets of individuals and entities listed in Annex 8 to the Ukraine Ordinance and to the prohibition to provide such individuals and entities with assets and financial resources have been added whenever the unfreezing of assets or the provision of economical resources are **necessary to ensure telecommunication or related services** (provided by an operator located in Switzerland or a member State of the European Economic Area) in the Russian Federation, Ukraine, Switzerland or a member State of the European Economic Area, or between the Russian Federation and Switzerland or a member State of the European Economic Area, or

between Ukraine, Switzerland or a member State of the European Economic Area, or **services related to data centres** located in Switzerland or a member State of the European Economic Area.

2. Prohibition of transactions with certain state-owned enterprises

Since **25 March 2022**, taking part, directly or indirectly, in any transaction with certain banks or other entities located in the Russian Federation, their controlled entities based outside Switzerland or a **member State of the European Economic Area** (as now specified under the new Ukraine Ordinance) and the entities acting on their behalf or upon their instructions/directions (as listed in Annex 15 to the Ukraine Ordinance) is **prohibited, except**, amongst others, with respect to (i) transactions strictly necessary for the purposes of purchasing, importing and transporting fossil fuel, in particular coal, oil and natural gas, as well as titanium, aluminium, copper, nickel, palladium and iron ore from or through the Russian Federation to Switzerland, a member State of the European Economic Area and, **since 27 April 2022**, Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro and Serbia (ii) certain transactions related to energy projects outside the Russian Federation, (iii) transactions serving humanitarian purposes and (iv) **since 29 June 2022, 6pm**, transactions related to the providing of **telecommunication services** or **services and equipment** necessary for the **functioning, maintenance or security of telecommunication services** to entities listed in Annex 15 to the Ukraine Ordinance. Also, the above prohibitions do not apply to the reception of payments owed by the entities listed in Annex 15 to the Ukraine Ordinance in relation to contracts entered into **before 15 May 2022** and to transactions, including sales, which are necessary for purposes of liquidating **before 1 October 2022** any co-enterprise or similar legal entities established before **26 March 2022**.

3. Prohibition in relation to specialised financial messaging services

On **10 June 2022** and effective as of **21 June 2022**, **Sberbank, Credit Bank of Moscow** and **Joint Stock Company Russian Agricultural Bank (JSC Ros-selkhozbank)** have been added to Annex 14 of the Ukraine Ordinance listing the banks, corporations and other entities to whom it is prohibited to provide **specialised financial messaging services** (e.g. SWIFT).

4. Clarifications regarding the ban on the provision of services to trusts

On **13 April 2022**, the Swiss Federal Council took the decision to adopt the EU sanctions decided against the Russian Federation and other restrictive measures against Belarus on 8 April 2022, as implemented by the Swiss Federal Council's decision of **27 April 2022** to amend the Ukraine Ordinance.

Amongst others, new prohibitions were introduced in relation to the **provision of services to trusts**, in particular, the **registration, provision or a registered office, business or administrative address as well as of management services** became prohibited to, a trust or any similar legal arrangement having as a settlor or a beneficiary (a) a Russian national or resident, (b) a legal person, corporation or entity established in the Russian Federation, (c) a legal person, corporation or entity whose directly or indirectly owned for more than 50% by an individual or a legal person, corporation or entity under (a) or (b) above, (d) a legal person, corporation or entity controlled by an individual or a legal person, corporation or entity referred to under (a), (b) or (c) above or, (e) an individual or legal person, corporation or entity acting on behalf or at the direction of an individual or a legal person, corporation or entity referred to under (a), (b), (c) or (d) above.

However, these prohibitions do not apply in relation to transactions which are nec-

essary to terminate by **31 July 2022** (**instead of 29 May 2022** under the former Ukraine Ordinance) contracts entered into **before 28 April 2022** and which would otherwise fall within the scope of the Ukraine Ordinance.

The Ukraine Ordinance now foresees a new possibility for SECO to **waive the above-mentioned restrictions**, in connection with operation of trusts or similar legal arrangements whose purpose is the **administration of occupational pension schemes, insurance policies or employee share scheme, charities, amateur sports clubs, and funds for minors or vulnerable adults**.

Also, as of **29 May 2022**, it was prohibited to act as, or arrange for another person to act as, a **trustee, nominee shareholder, director, secretary or a similar position**, for a trust or similar legal arrangement as referred to above. The latter prohibition has now been **suspended between 29 June 2022, 6pm, until 31 July 2022**, so that a similar prohibition is expected to resume as of **1 August 2022**.

5. Ban on the provision of audit and business consulting services

It is prohibited to, directly or indirectly, provide **accounting, auditing, including statutory audit, bookkeeping or tax consulting services, or business and management consulting or public relations services** to the **Government of the Russian Federation** or to **corporations, entities or other bodies established in the Russian Federation**.

These prohibitions **do not apply** to services that are (a) necessary for the **exercise of the right of defence** in judicial proceedings and the **right to an effective legal remedy**, (b) intended for the exclusive use of legal persons, entities or bodies established in the Russian Federation that are owned by, or solely or jointly controlled by, a legal person, entity or body which is incorporated in **Switzerland or a member State of the European**

Economic Area or (c) **necessary to terminate by 31 July 2022** contracts entered into before **30 June 2022** and which would otherwise fall within the scope of the Ukraine Ordinance.

The Ukraine Ordinance foresees the possibility for SECO to authorise certain **derogations, including in** connection with services related to humanitarian purposes.

6. Prohibition related to advertisement in certain Russian media

On **18 March 2022** the Swiss Federal Council took the decision **not to implement** the EU measure of **1 March 2022 suspending the broadcasting of contents from certain Russian media outlets**, namely Russia Today and Sputnik. In its statement, the Swiss Federal Council indicated that *"despite the fact that these outlets are used to spread targeted propaganda and disinformation by the Russian Federation, the Swiss Federal Council is of the opinion that it is more effective to counter untrue and harmful statements with facts instead of preventing them from being broadcast"*.

However, under the new Ukraine Ordinance, it is **now prohibited to advertise** (or arrange the advertisement of) **content produced or broadcast by certain Russian media outlets** such as Russia Today and Sputnik.

Conclusion

Considering the extensive scope of the sanctions under the Ukraine and Belarus Ordinances and the questions their application can often raise as well as the criminal consequences a breach thereof entails (pursuant to the Federal Act on the Application of International Sanctions (*Bundesgesetz über die Durchsetzung von internationalen Sanktionen/Loi fédérale sur l'application de sanctions internationales*)), activities and businesses which may be impacted call for a scrutinised review and assessment on a case-by-

case basis.

An overview of the scope of the Ukraine Ordinance can be found in our previous Newsletters No. 164, No. 166, 167 and 168 on the topic, released on 11 March 2022 (see [here](#)), 18 March 2022 (see [here](#)), 1 April 2022 (see [here](#)) and 2 May 2022 (see [here](#)), respectively, and an overview of the scope of the Belarus Ordinance can be found in our previous Newsletters No. 166 (see [here](#)) and No. 168 (see [here](#)), released on 18 March 2022 and 2 May 2022, respectively.

The Walder Wyss Newsletter provides comments on new developments and significant issues of Swiss law. These comments are not intended to provide legal advice. Before taking action or relying on the comments and the information given, addressees of this Newsletter should seek specific advice on the matters which concern them.

© Walder Wyss Ltd., Zurich, 2022

Contact persons

If you require legal advice on matters relating to sanctions, please do get in touch with your usual contact person at Walder Wyss or send an e-mail to sanctions@walderwyss.com.



Hubertus Hillerström

Partner, Geneva

Phone +41 58 658 55 82

hubertus.hillerstrom@walderwyss.com



Oliver M. Kunz

Partner, Zurich

Phone +41 58 658 56 41

oliver.kunz@walderwyss.com



Lukas Wyss

Partner, Zurich

Phone +41 58 658 56 01

lukas.wyss@walderwyss.com



Ramona Wyss

Partner, Zurich

Phone +41 58 658 52 44

ramona.wyss@walderwyss.com



Tervel Stoyanov

Counsel, Zurich

Phone +41 58 658 55 74

tervel.stoyanov@walderwyss.com



Valentin Wiesner

Managing Associate, Zurich

Phone +41 58 658 52 33

valentin.wiesner@walderwyss.com



David Cuendet

Senior Associate, Zurich

Phone +41 58 658 52 69

david.cuendet@walderwyss.com



Ivan Dunjic

Senior Associate, Zurich

Phone +41 58 658 58 32

ivan.dunjic@walderwyss.com



Martina Madonna-Quadri

Senior Associate

Phone +41 58 658 44 14

martina.madonna@walderwyss.com



Ken Savioz

Associate, Geneva

Phone +41 58 658 30 33

ken.savioz@walderwyss.com



Alexander Sorton

Associate, Geneva

Phone +41 58 658 30 24

alexander.sorton@walderwyss.com



Etienne Trandafir

Associate, Zurich

Phone +41 58 658 58 38

etienne.trandafir@walderwyss.com



Ayça Kuyumcuoglu

Trainee Lawyer, Zurich

Phone +41 58 658 56 09

ayca.kuyumcuoglu@walderwyss.com