



# EU sanctions and updates to Compliance Programmes:

## Legislative proposals for criminalizing sanctions breaches and stricter frameworks for asset confiscation

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**In addition to adopting its sixth sanctions package against Russia, the European Commission has issued a series of legislative proposals to streamline the implementation of EU sanctions at national level. These include measures that would criminalise the violation of EU sanctions as well as new reinforced rules on asset recovery and asset confiscation that will be applied universally.**

This summary alert follows our team's previous practical considerations around sanctions and previous sanction packages against Russia. For background information to this follow-up alert, please see [the link to the previous related local law thoughts](#).

Earlier this month, the EU adopted its sixth package of restrictive measures against Russia, which have been some of the strongest measures taken to date with serious implications. Considered the most complex package by authorities and companies in most jurisdictions, this package also imposes additional sanctions against Belarus, given its involvement in the war in Ukraine.

The newly introduced sanctions expand to financial and business services, broadcasting suspension, export restrictions on additional chemicals that could be used in the process of manufacturing chemical weapons and especially to a complete import ban on Russian seaborne crude oil and petroleum products. The ban is subject to certain transition periods to allow industries and global markets to adjust, as well as a temporary exemption for pipeline oil to ensure that Russian oil is phased out in an orderly manner. For the time being, gas import has not been prohibited, however this could potentially change in the foreseeable future.

In fact, the aim of these restrictions on oil imports and transport by sea of oil is not only to sanction Russia, but also to reduce the dependence of EU Member States on Russian energy imports as soon as possible and to find solutions to the climate crisis.

### **1 EU Commission's updated proposals: Criminalisation of breach of sanctions**

The European Commission issued a series of legislative proposals to streamline the implementation of EU sanctions at national level.

For example, these proposals aim to criminalise the violation of EU restrictive measure against Russia as well as new reinforced rules on asset recovery and asset confiscation.

It is estimated that the adoption of these proposals, which involves unanimity, will require considerable efforts on the part of the EU Member States both in the agreement phase and in their transposition into national law.

Further suggestions have been made to criminalise the breach of sanctions by adding them to the areas of crime offences laid down in Article 83(1) TFEU. This has been justified, on the one hand, by reference to the serious nature of the crime and its cross border dimension (which requires a harmonized approach) and, on the other hand, by the current inefficiency of prosecution of individuals or legal entities responsible for sanctions violation and inconsistencies of the sanctioning regime in different EU Member States. The forthcoming Directive would set out which infringements of EU rules on restrictive measures would be classified as criminal offences and the minimum and maximum criminal penalties on natural persons and legal entities (who may also be held criminally liable).

## **2 Strengthening of asset confiscation and recovery: not limited to Russian oligarchs**

The European Commission has also issued a proposal for a Directive to strengthen EU rules on asset recovery and confiscation, which are not limited to sanctioned Russian oligarchs who have violated restrictive measures. They will, similarly, apply to any person suspected of having committed financial crimes. The European Commission has made important changes to the European legislation currently in force in this area. Thus, the new rules will broaden the competences of the authorities involved in these operations and strengthen cooperation between them. Considerable efforts are also expected to be made by Member States to amend national legislation to establish an extended confiscation regime that would allow for non-conviction-based confiscation in certain instances as well as the confiscation of unexplained wealth.

Once implemented, such provisions will have effects not only on EU nationals and on companies incorporated in the EU but on any non-EU persons outside the EU in respect of any business with an EU nexus. Therefore, the updates to sanctions compliance programmes is quintessential to all corporations and is even more so for companies that are part of international groups that also need to ensure compliance with sanctions regimes issued by other international jurisdictions (e.g. the US, the UK, Canada, Japan etc). Authorities are confirming they will rely heavily on communication and cooperation with authorities in other jurisdictions, hence the need for a coordinated and consistent approach for groups of companies operating in several jurisdictions.

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