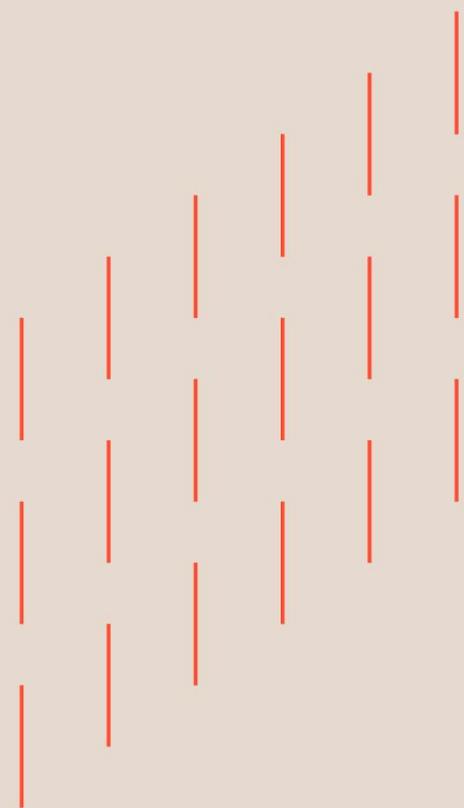


Counter-Sanctions Summary

Updated as of April 18, 2022

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Contents

| | |
|--|-------|
| <u>Overview</u> | 3 |
| <u>Russian counter-sanctions</u> | 4-37 |
| <u>Liability</u> | 38-44 |
| <u>Prospects for foreign business</u> | 45-52 |
| <u>Recent trends in litigation and arbitration</u> | 53-56 |
| <u>Assumptions and limitations</u> | 57 |



Password to view translations of laws
and regulations available in ALRUD VDR
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CsC032022

Overview

Russian counter-sanctions consist of measures that have been taken in response to the actions of unfriendly countries. Such measures include:

- The prohibition or need for approval of certain transactions (operations) with foreign currency or foreigners
- Thresholds for advance payments
- A special procedure for debt repayment, including under gas supply contracts
- Import and export bans
- Restrictions on access to Russia's inland waters and sea ports
- Sanctions on individuals
- A moratorium on bankruptcy
- Administrative and criminal liability for discrediting the Armed Forces and calls for restrictive measures
- Possible changes to the rules of civil law
- The external administration of companies that leave the Russian market or suspend their activities
- The exclusive jurisdiction of Russian state courts over sanctions-related disputes

A stack of coins is shown in a shallow depth of field, with the top coin in sharp focus and the others blurred. The background is a soft, warm, golden-brown color. Two vertical red lines are positioned to the left of the text.

|| Russian counter-sanctions

Counter-Sanctions Law (1)

Federal Law No. 127-FZ “On Measures (Countermeasures) in Response to the Unfriendly Actions of the USA and/or Other Foreign States” dated June 4, 2018 (“**Counter-Sanctions Law**”)

Target of the counter-sanctions:

- Unfriendly countries
- Citizens and officials of unfriendly countries
- Legal entities under the jurisdiction of unfriendly countries
- Entities directly or indirectly **controlled by** or **affiliated** with unfriendly countries

Note: The term “unfriendly countries” is usually interpreted as the USA and other foreign states that have imposed unilateral sanctions or other restrictions against the Russian Federation, citizens of the Russian Federation, or Russian legal entities. For the purpose of the most recent counter-sanctions, the Russian government has adopted [a separate list](#) of targeted countries to avoid any misunderstanding.

Note: Current judicial practice states that a controlled entity can be a company whose CEO is included in the sanctions list, as well as a state-owned enterprise in which a full participant has been sanctioned.

Counter-Sanctions Law (2)

Grounds: Unfriendly activities, including involvement in such activities, against Russia, Russian citizens, and legal entities incorporated under Russian law.

Note: Extremely broad wording that allows for implementing measures independently.

Some of the counter-sanctions specifically include a ban on or the restriction of*:

- International cooperation with the sanctioned entity
- Import of products and/or materials from the sanctioned entity to Russia
- Export of products and/or materials from Russia to the sanctioned entity
- The performance of work or rendering of services by the sanctioned entity for the Russian state authorities and state-owned corporations
- Access of the sanctioned entity to participation in the privatization of Russian state and municipal property, as well as the performance of work on respective projects.

**The list of measures is open-ended and may be extended by the Russian president.*

Counter-Sanctions Acts: February 2022 (1)

| | | | |
|--------|---|-----------------|-------------------------------------|
| Number | 79 | Date | February 28, 2022 |
| Type | Decree | State authority | President of the Russian Federation |
| Name | <u>On the Application of Special Economic Measures in Connection with the Unfriendly Actions of the United States of America and Foreign States and International Organizations That Have Joined Them</u> | | |

Summary: The act introduces restrictions on foreign exchange transactions that aim to balance the ruble's exchange rate versus other currencies.

Counter-Sanctions Acts: February 2022 (2)

KEY PROVISIONS

1. FOREIGN EXCHANGE EARNINGS



- 80% of foreign currency received under foreign trade contracts with non-residents since January 1, 2022 must be sold by residents within 3 (three) business days starting from February 28, 2022.
- The same applies to foreign exchange earnings credited after February 28, 2022. The deadline for their sale is 3 (three) business days from the date on which the foreign currency is deposited in a resident's account.

2. BUYBACK OF SHARES



- Russian public joint-stock companies may buy back their publicly traded shares subject to a number of conditions (including in the event of a 20% or more decrease in the average share price and the primary stock exchange index).

Counter-Sanctions Acts: February 2022 (3)

3. FOREIGN EXCHANGE TRANSACTIONS



The following has been prohibited since March 1, 2022:

- The provision of foreign currency by *residents* to *non-residents* under **loan agreements**
- Foreign currency transfers by *residents* to their accounts (deposits) at **banks/other financial institutions** located **outside of Russia**
- The transfer of funds by *residents* without opening a bank account using electronic payment means provided by **foreign payment service suppliers** (e.g., foreign e-wallets)

Note: The restrictions do not apply to diplomatic missions, consular offices, or branches of resident legal entities located outside Russia (including their employees).

Counter-Sanctions Acts: February 2022 (4)

GENERAL EXCEPTIONS ENFORCED BY THE GOVERNMENT COMMISSION ON CONTROL OVER FOREIGN INVESTMENTS*

Foreign currency transactions (operations) that are permitted:

- Residents can transfer foreign currency to foreign accounts to fund the day-to-day activities of branches and representative offices in an amount not exceeding that provided for the preceding year.
- Non-residents can send foreign currency to the foreign accounts (deposits) of non-legal entity residents in the form of wages, rent, coupons, dividends on securities, or other interest payments.
- Non-legal entity residents can transfer, including conversion operations, foreign currency from foreign accounts opened before March 1, 2022 to another foreign account, provided that they have disclosed information about such accounts to the Russian tax authorities.



* [*Minutes No. 7 of the Sub-Commission Meeting dated March 10, 2022*](#)

Counter-Sanctions Acts: March 2022 (1)

| | | | |
|--------|--|-----------------|-------------------------------------|
| Number | 81 | Date | March 01, 2022 |
| Type | Decree | State authority | President of the Russian Federation |
| Name | <u>On Additional Temporary Economic Measures to Ensure the Financial Stability of the Russian Federation</u> | | |

Summary: The act introduces restrictions for persons from unfriendly countries related to the withdrawal of cash and capital from Russia

KEY PROVISIONS



1. FOREIGN CURRENCY EXPORTS IN CASH

Since March 2, 2022, it has been prohibited to export cash foreign currency in bank notes and/or monetary instruments denominated in foreign currency in an amount greater than the equivalent of **US\$ 10,000**.

The rate is the Central Bank's ("**CBR**") exchange rate as of the date of export.

Counter-Sanctions Acts: March 2022 (2)

2. REGULATED TRANSACTIONS



Residents

AND

foreign persons associated with foreign states that have committed unfriendly actions against Russian legal entities and individuals ("**Unfriendly States**"); or

persons who are **under the control** of said foreign persons, regardless of the place of their registration or the place of their primary economic activities.

Note: The rules apply, among others, to:

- Foreign persons with citizenship of Unfriendly States
- Persons that (i) are registered, (ii) conduct their primary business activities, or (iii) generate their primary profits from activities in Unfriendly States.

Note: The rules do not apply to transactions conducted by the CBR or Russian state authorities.

Counter-Sanctions Acts: March 2022 (3)

Types of regulated transactions:

- (i) RUB-denominated credits and loans to persons from Unfriendly States
- (ii) Transactions with persons from Unfriendly States that resulted in ownership of securities*/ real estate
- (iii) Foreign exchange transactions cited in Decree No. 79

** Participatory interests in the charter capital of Russian limited liability companies are not officially considered securities, however, since the law aims to restrict capital outflow, we believe that such transactions may be recognized as restricted in the future and will monitor any updates.*

Rules for regulated transactions:

- From March 2, 2022, regulated types of transactions are conducted based on permits issued by the **Government Commission** on Control over Foreign Investments
- For stock-exchange transactions, the parties must obtain a permit from the **CBR** approved by the **Ministry of Finance**. Such a permit contains conditions for concluding such transactions.

Note: The rules also apply to transactions involving the acquisition of securities/real estate from a foreign person who is not from an Unfriendly State, but who **obtained such assets from a person from an Unfriendly State** after February 22, 2022.

Counter-Sanctions Acts: March 2022 (4)

| | | | |
|--------|---|-----------------|-------------------------------------|
| Number | 126 | Date | March 18, 2022 |
| Type | Decree | State authority | President of the Russian Federation |
| Name | On Additional Temporary Economic Measures to Ensure the Financial Stability of the Russian Federation in Matters Concerning Currency Regulation | | |

Summary: The act introduces Additional restrictions on certain foreign currency and corporate transactions.

KEY PROVISIONS

1. EXPANDED LIST OF REGULATED TRANSACTIONS



Until **December 31, 2022**, the following transactions cannot be conducted without the **CBR's prior approval**:

- (i) Payment by a resident of a participatory share, contribution, or equity interest in the property (i.e. authorized or charter capital, cooperative interest fund) of a non-resident legal entity (restriction does not apply to stock exchange transactions)
- (ii) Contribution by a resident to a non-resident under a general partnership agreement with investment in the form of capital expenditures (JV agreement)

Counter-Sanctions Acts: March 2022 (5)

2. CREDITS AND LOANS

Ruble-denominated credits and loans to residents under the control of foreign persons associated with Unfriendly States do not require prior approval.

3. CBR'S EXPANDED AUTHORITY

- To determine certain thresholds within which certain transactions may be conducted without the Government Commission's permit
- To issue permits for the sale of foreign exchange earnings at a time other than that set by Decree No. 79 or permits not to sell foreign exchange earnings at all

4. BANK ACCOUNT (DEPOSIT) AGREEMENTS

Until 1 September 2022, foreign currency-denominated obligations between credit institutions under foreign sanctions and resident legal entities will be deemed duly performed if (i) they are fulfilled in RUB and (ii) arose before the respective restrictive measures came into force.

Counter-Sanctions Acts: March 2022 (6)

PROCEDURE TO OBTAIN PERMITS FOR:

- The mandatory sale of foreign exchange earnings by residents at a time other than 3 business days from the date on which the foreign currency is deposited in the resident's account
- The release of residents from the obligation to sell foreign exchange earnings
- The payment by a resident of a participatory share, contribution, or equity interest in the property (i.e. authorized or charter capital, cooperative interest fund) of a non-resident legal entity
- The contribution by a resident to a non-resident under a general partnership agreement with investment in the form of capital expenditures (JV agreement)

When to file? 10 business days prior to the planned transaction

Timeframe – 10 business days

[Decision of the CBR Board of Directors on the Procedure for Issuing Permits for Certain Operations dated March 25, 2022](#)

Central Bank Thresholds: April 2022 (1)



Advance payments by residents (“**Residents**”) to foreign legal entities and individuals (“**Non-Residents**”) may not exceed **30% of the total price** of the following contracts:

- **Service contracts**, where the Non-Resident is a service provider
- **Contracts for the performance of work** by a Non-Resident or the **transfer of information** or **results of intellectual activity** by a Non-Resident, including exclusive rights thereto

8 exceptions, including contracts for the provision of services, performance of work, transfer of information and results of intellectual activity by a Non-Resident, including exclusive rights thereto, in which the total amount of obligations does **not exceed US\$ 15,000** in each of them as of the date of conclusion or adjustments in the amount of the contract.

Trend of restrictions being eased

Note: Non-Resident legal entities from Unfriendly States **cannot purchase foreign currency on the Russian currency market**

[Decisions of the CBR Board of Directors dated April 01 and April 15, 2022](#)

Central Bank's Thresholds: April 2022 (2)

Suspension of money transfers by non-residents

Applies to:

- Non-Resident legal entities from Unfriendly States
- Non-Resident individuals from Unfriendly States who are not working in Russia under employment or civil law contracts

The transfer of funds outside Russia from the following sources are subject to suspension:

- Bank accounts
- Accounts of Russian brokers.

The suspension period is 6 months (starting from April 1).

Thresholds for transferring funds abroad for individuals

- During a **calendar month**, individuals may transfer **no more than US\$ 10,000** or the equivalent in another currency outside the Russian Federation from their account in a Russian bank to their account or to another individual **abroad**.
- **No more than US\$ 5,000** may be transferred per month through companies that provide money transfer services without opening an account.

Information of the CBR dated April 01, 2022 is available at:

<https://cbr.ru/press/event/?id=12783>

Clarifications to Decrees No. 79 and 81 (1)

General issues

- Clarifications have been made to the concepts of “control” (Article 5 of the Law on Strategic Investments) and “resident” (Article 1 of the Law on Currency Regulation and Currency Control).
- A Russian citizen who is a resident and also has other citizenship is considered a resident.

Loans and credits

- Parties may **restructure** foreign currency loans issued before March 1, 2022 without prior approval.
- Russian credit institutions may grant credits to residents under the control of persons from Unfriendly States if the funds are transferred **for business activities in Russia***.

** [Minutes No. 5 of the Sub-Commission Meeting dated March 9, 2022](#)*

Note: Information Letter No. IN-01-31/26 of the Bank of Russia dated March 05, 2022 and the respective clarifications were repealed. In turn, the CBR issued [Official Clarification No. 2-OP dated March 18, 2022](#).

Clarifications to Decrees No. 79 and 81 (2)

Securities and real estate

Permits are NOT required for:

- The conversion of depositary receipts for shares of a Russian issuer into shares of a Russian issuer, provided that the shares are credited to the securities account of said receipt holder
- Transactions made to transfer securities by a person from an Unfriendly State who holds a title to the securities and performed all actions related thereto for the benefit of the person to whom the securities are transferred (e.g., return from a trust or a broker as a title holder)
- The transfer of securities without the transfer of title to them
- Operations performed against the will of the person exercising his/her rights to the securities (execution of court judgments or the conversion of securities by the issuer)
- The debiting of securities from a nominee holder's securities account and transfer to another account

- Securities to which the title is registered and which are stored outside of Russia
- Real estate located outside Russia
- Settlements on transactions (operations) with such securities/real estate conducted using accounts (deposits) that residents have opened at foreign financial organizations and provided information about them to the Russian tax authorities.

Real estate transactions: Clarifications

Permits are NOT required for:

- Transactions involving “special foreign persons” in which residents aim to both acquire and dispose of securities or real estate. No official definition of such person is given *
- The transfer of real estate to individuals from Unfriendly States **
- The purchase of real estate from individuals from Unfriendly States with payment through a C-type account (see Presidential Decree No. 95 below) **
- shared construction agreements **

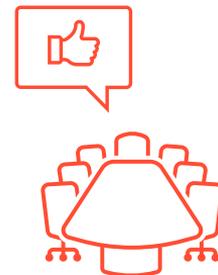
* [CBR Official Clarification No. 2-OP dated March 18, 2022](#)

** [Minutes No. 12 of the Sub-Commission Meeting dated March 17, 2022](#)



Rules on issuing permits for regulated transactions

| | | | |
|--------|---|-----------------|--------------------------------------|
| Number | 295 | Date | March 06, 2022 |
| Type | Decree | State authority | Government of the Russian Federation |
| Name | <u>On the Approval of Rules for the Issuance by the Government Commission on Control over Foreign Investments in the Russian Federation of Permits for Transactions (Operations) with Foreign Persons by Residents in order to Implement the Additional Temporary Economic Measures to Ensure the Financial Stability of the Russian Federation and Amend the Regulation on the Government Commission on Control over Foreign Investments in the Russian Federation</u> | | |



Summary: The act introduces procedural aspects for obtaining permits for regulated transactions listed in Decree No. 81 of the Sub-Commission of the Government Commission on Control over Foreign Investments.

Rules on the repayment of foreign debt

| | | | |
|--------|---|-----------------|-------------------------------------|
| Number | 95 | Date | March 05, 2022 |
| Type | Decree | State authority | President of the Russian Federation |
| Name | <u>On the Temporary Procedure for the Fulfillment of Obligations to Certain Foreign Creditors</u> | | |

Summary: The act introduces the procedure for the repayment of debt under certain types of arrangements to persons from Unfriendly States and persons under the control of the latter.

KEY PROVISIONS

- **Subject:** Obligations of Russian residents to foreign creditors associated with Unfriendly States or persons under the control of these foreign creditors **exceeding RUB 10 million per month** or the same amount in a foreign currency **as part of credits, loans, and financial instruments (including the payment of dividends in foreign currency)**.
- **Method:** Open a **C-type account (in rubles)** in the name of the foreign creditor or foreign nominee holder. For the purpose of financial instruments (shares or bonds), the existing non-residents' securities accounts are used.

Note: Until any other ways of fulfilling obligations are adopted, the fulfillment of obligations without compliance with said procedure is subject to the approval of the CBR (banks and financial institutions) or the Ministry of Finance (other entities).



| Rules on the repayment of foreign debt (2)

KEY PROVISIONS

- The types of C-type accounts and operations processed on such accounts are described in the Decision of the CBR Board of Directors dated March 18, 2022 (the previous decision was cancelled):
 - 1) Bank account
 - 2) Securities account and sub-account
 - 3) Brokerage account
 - 4) Special brokerage account
 - 5) Clearing bank account
 - 6) Trading bank account



How can money be debited from C-type accounts?

Payment for Russian gas in rubles (1)

| | | | |
|--------|---|-----------------|-------------------------------------|
| Number | 172 | Date | March 31, 2022 |
| Type | Decree | State authority | President of the Russian Federation |
| Name | On the Special Procedure for Foreign Buyers to Fulfill Their Obligations to Russian Natural Gas Suppliers | | |

Summary: Payment for Russian natural gas supplies to Unfriendly States shall be made in rubles.

KEY PROVISIONS

- The customs authorities decides to prohibit supplies to Unfriendly States if (i) the payment deadline for gas supplied under a contract has passed or (ii) payment has not been made (ii) or made in a foreign currency (iii) and/or not in full, (iv) and/or to an account at a bank that is not an authorized bank
- Gazprombank Joint-Stock Company (an authorized bank) opens special K-type ruble accounts and special K-type foreign currency accounts for payments for gas that has been supplied

| Payment for Russian gas in rubles (2)

PROCEDURE

- A foreign buyer from an Unfriendly State transfers funds to a special **K-type foreign currency account**
- The authorized bank:



- **Sells the funds** received in foreign currency at an organized tender
- **Credits the receipts** from the sale in rubles to the foreign buyer's special **K-type ruble account**
- Transfers the funds credited in rubles to the **ruble account opened by the Russian supplier** at the authorized bank.

- The payment obligation shall be deemed to have been **fulfilled** from the time the funds received from the sale of the foreign currency **are credited to the ruble account** opened by the Russian supplier at the authorized bank
- The **Government Commission** on Control over Foreign Investments **may authorize** the execution of payment obligations **without complying with the procedure** established by this Decree

[Decision of the Board of Directors of the Bank of Russia "On Establishing the Regime for Special K-type Accounts in Foreign Currency and in the Currency of the Russian Federation"](#)

Export ban



General export ban

Items banned for export from Russia to **any** foreign state, except for the EAEU and selected territories (including sugar*, grain crops**, canola, and sunflower seeds***)

[Decree of the Russian Government No. 311 dated March 09, 2022](#)
[Decree of the Russian Government No. 361 dated March 14, 2022](#)
[Decree of the Russian Government No. 362 dated March 14, 2022](#)
[Decree of the Russian Government No. 529 dated March 31, 2022](#)

Targeted export ban

Certain timber and steel items banned for export from Russia to the listed foreign states (those that imposed unilateral sanctions)

[Decree of the Russian Government No. 313 dated March 09, 2022](#)

Export permits

Permits for the export of the listed goods to the EAEU and selected territories

[Decree of the Russian Government No. 312 dated March 09, 2022](#)

Border crossing points

Soybeans may be exported by automobile, railway, and water transport from Russia only via the border crossing points per the established list***

[Decree of the Russian Government No. 530 dated March 31, 2022](#)
[Decree of the Russian Government No. 533 dated March 31, 2022](#)

Exceptions:

**Export license for export to the EAEU*

*** Export license based on quotas for export to third countries*

**** Except for the EAEU and selected states*

Note: The Decrees specify a number of **exceptions** for each list of goods (e.g., goods originating in Russia and exported for private use).

Note: The export of the listed goods originating from Russia is allowed, but only if a special **certificate of Russian origin** (form CT-1 or other) is obtained. In light of the above, please note that goods manufactured in Russia does not automatically mean they are free for export.

Rules for obtaining export permits (1)



| | INDUSTRIAL PRODUCTS | TELECOMMUNICATIONS EQUIPMENT |
|---------------------|---|---|
| State body | Russian Ministry of Industry and Trade | Russian Ministry of Digital Development, Communications, and Mass Media |
| Application | Paper form/via electronic system* + attachments. No special form, only requirements for content | Paper form/via electronic system + attachments. Special form in accordance with the schedule to the procedure |
| Language | Russian (including a notarized translation) | |
| Timeline | <u>Approximately</u> 14 business days (if there are no objections to the submitted documents) | |
| Grounds for refusal | <ul style="list-style-type: none"> • Failure to eliminate any violations by the set deadline • Shortage of exported goods in Russia | |
| Act | <i><u>Procedure for issuing permits for the export of industrial products</u></i> | <i><u>Procedure for issuing permits by the Ministry of Digital Development</u></i> |

*Order No. 1314 of the Russian Ministry of Industry and Trade dated April 8, 2022 set forth the procedure for obtaining permits electronically at <http://non-tariff.gov.ru>.

Rules for obtaining export permits (2)

| | AGRICULTURAL MACHINERY | CERTAIN TYPES OF EQUIPMENT |
|---------------------|---|--|
| State body | Russian Ministry of Agriculture | Russian Ministry of Natural Resources and Environment |
| Application | Paper form/email + attachments. No special form, only requirements for content | Paper form/email/website (https://www.mnr.gov.ru/open_ministry/reference/ask/) + attachments. No special form, only requirements for content |
| Language | Russian (including a notarized translation) | Russian (including a notarized translation) |
| Timeline | 8 business days | 20 business days |
| Grounds for refusal | Risk of the failure to achieve the target indicators of the State Program for the Development of Agriculture and the Regulation of Markets for Agricultural Products, Raw Materials, and Food | 5 different grounds, including inaccurate information |
| Act | Procedure for issuing permits for agricultural machinery | Procedure of issuing permits for laboratory, mining, geological prospecting, and geophysical equipment |

Rules for obtaining export permissions (3)



| | CERTAIN TYPES OF MEDICAL PRODUCTS | CERTAIN TYPES OF VEHICLES |
|----------------------------|---|--|
| State body | Russian Ministry of Health | Russian Ministry of Transport |
| Application | Paper form + attachments. No special form, only requirements for content | Paper form/email + attachments. No special form, only requirements for content |
| Language | Russian (including a notarized translation) | Russian (including a notarized translation) |
| Timeline | 21-36 business days | 17-29 business days |
| Grounds for refusal | <ul style="list-style-type: none"> • Failure to eliminate any violations by the set deadline • Shortage of exported goods in Russia | Failure to eliminate any violations by the set deadline; failure of the declared goods to comply with the list of items; threat to national defense and state security in the event the goods are exported |
| Act | Procedure for issuing permits for certain types of medical products | Procedure for issuing permits for certain types of vehicles and their parts and components |

Blocking of vessels



The Government can now issue orders imposing bans on access to **Russian seaports** and **inland waterways** for the following **mixed (river-sea) navigation vessels**:

- Vessels under the flag of a foreign state
- Vessels registered with a foreign state
- Vessels that are operated on the basis of ownership or other legal grounds by an entity associated with a foreign state, whose ultimate beneficiaries are persons who are in any way related to the foreign state

Basis for implementation – verified information confirming that Russian vessels are blocked from seaports and inland waterways in the same way.

[Decree No. 468 of the Russian Government dated March 25, 2022 "On the Approval of the Rules for Preparing and Adopting a Decision Imposing and/or Lifting Reciprocal Restrictions Envisaged by Clause One of Article 231\(4\) of the Inland Water Transport Code of the Russian Federation"](#)

Sanctions on individuals (1)

| | | | |
|--------|---|-----------------|-------------------------------------|
| Number | 30-FZ | Date | March 04, 2022 |
| Type | Federal Law | State authority | President of the Russian Federation |
| Name | On Amendments to the Federal Law "On Measures against Persons Involved in Violations of Fundamental Human Rights and Freedoms and the Rights and Freedoms of Citizens of the Russian Federation" and Article 27 of the Federal Law "On the Procedure for Exit from and Entry to the Russian Federation" | | |

Summary: The act allows for imposing "personal" sanctions on any foreigner

KEY PROVISIONS

1. TRAVEL BAN AND SUBSEQUENT RESTRICTIONS

Now can be applied to **any foreign individuals and stateless persons**, not only citizens of the USA.

Grounds: blacklist or a decision on undesirability.

Sanctions on individuals (2)

The following automatic restrictions are imposed **if** a travel ban is imposed:

- Ban on the **disposal of property** located in Russia
- Suspension of the **activities of legal entities** in Russia which are **under the control** of such persons
- Suspension of **membership in the management bodies** of organizations registered in Russia

2. ASSET FREEZE AND RESTRICTIONS ON TRANSACTIONS

- Financial and other **asset freezes** in Russia
- Prohibition to conclude any **transactions involving property and investments by such** individuals.



The Ministry of Foreign Affairs is expanding blacklists to include **public officials in the USA, UK, Canada, and Australia.**

Note: May be applied to individuals on whom a travel ban has been imposed.

Note: Procedures for asset freezes have yet to be formalized.

Moratorium on bankruptcy

| | | | |
|--------|--|-----------------|--------------------------------------|
| Number | 497 | Date | March 28, 2022 |
| Type | Decree | State authority | Government of the Russian Federation |
| Name | On the Introduction of a Moratorium on the Initiation of Bankruptcy Proceedings on Applications Filed by Creditors | | |

KEY PROVISIONS

- Ban on **creditors filing applications** to initiate bankruptcy proceedings against their debtors.
- Does not apply to debtors who are apartment building **developers**.
- The moratorium is effective **from April 1, 2022 to October 1, 2022**.
- **Creditors** cannot initiate insolvency or enforcement proceedings. **Debtors** affected by the moratorium may still file for their own bankruptcy.
- Debtors may appeal to a court for an **installment plan**.
- **Restrictions on satisfaction of claims** of founders (shareholders) for the separation of a share from a company's charter capital due to the termination of a shareholder's relations with a company, a debtor's purchase or acquisition of outstanding shares or the payment of the actual value of the share, the payment of dividends, income on shares, as well as the distribution of profits between the founders (shareholders) of a debtor.
- Restrictions on **offsetting** with counterparties.



Note: To lift the restrictions, the company should waive the moratorium.

Compensation for compulsory licensing

- [Decree No. 299 of the Russian Government dated March 06, 2022](#) modified the methodology used to determine the **amount of compensation under compulsory licenses** to use an invention, utility model, or industrial design.
- **Affected persons:** patent holders associated with foreign states who commit unfriendly acts against Russian legal entities and individuals.

Before

0.5%

After

0%

of the actual revenue of the person who exercised the right to use IP without the consent of the patent holder from the production and sale of goods as well as the performance of work and provision of services for the production, performance, and provision for which the respective IP was used

IP changes



Limitations on the application of the Russian Civil Code



In 2022, the Government may now decide on the list of goods to which certain provisions of the Civil Code on the protection of exclusive rights cannot be applied

Federal Law No. 46-FZ dated March 08, 2022

Parallel import of medicines



In the event of a shortage in medicines in 2022, the Government may decide to allow foreign medicines onto the market in their original packaging in a foreign language

Federal Law No. 64-FZ dated March 26, 2022

Parallel import of certain goods



The Government allowed the import of high-demand goods of foreign origin without the consent of the rights holders according to separately approved lists of goods

Government Decree No. 506 dated March 29, 2022

Recent initiatives discussed in the media

The following initiatives have recently appeared and been discussed in the media or public field. We are unaware of any likely progress in their discussion or implementation, or their exact content. Updates on these issues can be expected in the coming days.



- The creation of a **list of foreign companies that left the Russian market**. According to the initiative, once on the list, if the company decides to return to Russia, it would have to make and uphold certain insurance deposit that could be used by the public authorities in the event the company decides to leave Russia again. In addition, the government may withhold the company's increased taxes.
- A **10-year ban** on working on the Russian market if the company does not return by May 10.
- A ban on **currency clauses** for contracts executed in Russia.

A warm-toned, semi-transparent background image showing a close-up of hands in business attire. One hand holds a silver pen, poised over a document. Another hand is visible on the left, holding a pair of glasses. The scene is set on a desk with various papers and a laptop keyboard partially visible. The overall atmosphere is professional and focused.

|| Liability

ALRUD

Criminal liability (1)

| | | | | | |
|--------|---|-----------------|--------------------|----------------|----------------|
| Number | 32-FZ | Date | March 04, 2022 | | |
| Type | Federal Law | State authority | Russian Parliament | Effective date | March 04, 2022 |
| Name | On Amendments to the Criminal Code of the Russian Federation and to Articles 31 and 151 of the Code of Criminal Procedure of the Russian Federation | | | | |

| Article | Act | Maximum liability* |
|------------------|---|--|
| 207 ³ | Public dissemination under the guise of reliable reports of knowingly false information containing data about the use of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its citizens and to maintain international peace and security | Fine of up to RUB 1,500,000 or the amount of wages or other income of the convicted person for up to 18 months, corrective labor for up to one year, compulsory labor for up to three years, or imprisonment for up to three years |

* Without aggravating circumstances

Criminal liability (2)

| Article | Act | Maximum liability |
|------------------|---|--|
| 280 ³ | Public actions that aim to discredit the use of the Armed Forces of the Russian Federation to maintain international peace and security or discredit the performance by state authorities of their powers outside the territory of the Russian Federation*, including public calls to obstruct the use of the Armed Forces, <u>committed by a person after being held administratively liable for a similar act within one year</u> | Fine of up to RUB 300,000 or the amount of wages or other income of the convicted person for up to two years, compulsory labor for up to three years, arrest for up to six months, or imprisonment for up to three years with the deprivation of the right to hold certain offices or engage in certain activities for the same period |
| 284 ² | <u>Calls for restrictive measures</u> by foreign states or unions to impose or prolong political or economic sanctions against the Russian Federation, citizens of the Russian Federation, or Russian legal entities, <u>committed by a person after being held administratively liable for a similar act within one year</u> | Fine of up to RUB 500,000 or the amount of wages or other income of the convicted person for up to three years, restrictions of freedom for up to three years, compulsory labor for up to three years, arrest for up to six months, or imprisonment for up to three years with/without a fine of up to RUB 200,000 or the amount of wages or other income of the convicted person for up to one year |

**On Amendments to the Criminal Code of the Russian Federation and Articles 150 and 151 of the Criminal Procedure Code of the Russian Federation*

Criminal liability (draft law)

Summary

The draft law criminalizes any abuse of authority committed with the purpose of **compliance with anti-Russian sanctions**.

Subjects of the offense

Persons performing **managerial functions** at a commercial or other organization such as:

- Sole executive body (e.g., CEO)
- Members of the board of directors or other collective executive body
- Individuals performing administrative duties at a company

What exactly is an “abuse of authority”?

- Action against the interests of a company at which the respective executive has authority
- For the purposes of self-interest or inflicting harm on other persons
- If the deed harmed public interests or rights
- For the purpose of compliance with decisions on restrictive measures against Russia

Liability

- **Fine** of up to RUB 1,000,000 (approximately USD 12,620 or EUR 11,600) or five years’ worth of the convicted person’s income
- **Forced labor** for up to five years with the **deprivation of the right to hold certain company positions** for up to three years
- **Imprisonment** for up to 10 years with the **deprivation of the right to hold certain company positions** for up to three years

[On Amendments to Article 201 of the Criminal Code of the Russian Federation \(Draft Law No. 102053-8\)](#)

Administrative liability

| | | | | | |
|--------|--|-----------------|--------------------|----------------|----------------|
| Number | 31-FZ | Date | March 04, 2022 | | |
| Type | Federal Law | State authority | Russian Parliament | Effective date | March 04, 2022 |
| Name | On Amendments to the Russian Code of Administrative Offenses | | | | |

| Article | Act | Maximum liability** |
|-------------------|---|---|
| 20.3 ³ | Public actions that aim to discredit the use of the Armed Forces of the Russian Federation to maintain international peace and security, including public calls to obstruct the use of the Armed Forces, or discredit the performance by the state authorities of the Russian Federation of their powers outside the territory of the Russian Federation* | Administrative fine of up to RUB 50,000 for citizens, up to RUB 200,000 for officials, and up to RUB 500,000 for legal entities |
| 20.3 ⁴ | Calls for restrictive measures by foreign states or unions to impose or prolong political or economic sanctions against the Russian Federation, citizens of the Russian Federation, or Russian legal entities | Administrative fine up to RUB 50,000 for citizens, up to RUB 200,000 for officials, and up to RUB 500,000 for legal entities |

* [On Amendments to Articles 8.32 and 20.3.3 of the Russian Code of Administrative Offenses](#)

** Without aggravating circumstances

High treason in modern Russia

The provision of financial, material, technical, consulting, or other assistance to a foreign state, international, or foreign organization or their representatives **in activities that run counter to the security of the Russian Federation** contains elements of a crime under Article 275 of the Criminal Code of the Russian Federation (high treason).

- I. No new regulation has been added: a message in the telegram channel of the Russian Federation Prosecutor General's Office has drawn attention to this issue
- II. Assistance must be provided in activities that run counter to the security of the Russian Federation
- III. No clear boundaries have been set for the definition of activities that run counter to the security of the Russian Federation
- IV. No grounds have yet to be established for changes in the application of this rule



Requests from the authorities: how should you react?



- Many companies have recently received warnings about the **inadmissibility of violating the law** or various requests related to their business and further activities from the Prosecutor's Office or other state authorities such as Ministry of Industry and Trade.
- **What does this mean?** The state authorities are trying to prevent the unjustified termination of business in Russia by putting more pressure on the Russian management of foreign-owned companies, while at the same time trying to collect data about such activities.
- Note that the emphasis of the warnings is to ensure compliance with **already existing laws and regulations** (preventing premeditated and fictitious bankruptcy, crimes and offenses in matters concerning employment, and consumer protection), and they do not necessarily mean that the company is already in violation of certain requirements.

A blurred background image of a business meeting. In the foreground, a person's hands are visible, one holding a pen and the other pointing at a document. The document has some text, including "SUMMARY REPORT" and "TABLE 1". The overall scene is dimly lit and has a warm, yellowish tint.

Prospects for foreign business on the Russian market

External administration (draft law) (1)



On April 12, 2022, parliamentarians introduced [Draft Federal Law No. 104796-8 "On External Administration for Entity Management"](#) ("**Draft Law**") to the State Duma of the Russian Federation.

Key changes in contrast to the previous unofficial version of the Draft Law:

- The approach used to identify targeted companies that may be subject to external administration has been **softened**
- **Branches** of companies have become subject to external administration
- External administration will generally be instituted for **18 months**
- The head of a federal executive body or a governor of a Russian region are entitled to **initiate the external administration procedure**
- External administration **will not necessarily end with** the replacement of the target's assets (via spin-off), the target's liquidation or bankruptcy, or the establishment of a new company and its sale at an auction
- External administration will be exercised in one of **two ways**: (i) the placement of all or part of the shares or participation interests in the target's charter capital under external administration (management company) in trust; (ii) the transfer of the powers of the target's chief executive or CEO to external administration
- Foreign investors holding more than 50% of the target's voting shares will be entitled to terminate external administration both **before and after** its institution. Such termination should be predicated on the obligation to resume and/or continue the target's activities

External management (draft law) (2)



External management may be imposed if:

Features of the company:

- A. A foreign person (including several persons not affiliated with one another other) related to an **Unfriendly State** is the controlling entity or directly or indirectly holds at least **25% of the voting shares or participation interest** in the entity's capital
- B. The entity is **essential** for ensuring the stability of the economy and civil commerce as well as protecting the rights and legitimate interests of citizens in Russia.

Note: The Draft Law contains a list of criteria for being an essential entity under clause B above, which may be interpreted broadly. Moreover, the competent authority, the interdepartmental commission of the Russian Ministry of Economic Development, will have the right to expand this list.

Status of activities:

- A. The **management** of activities is de facto **disrupted** in breach of Russian law by the target's management bodies and/or participants (shareholders)
- B. The aforementioned persons perform actions that **may lead to** the unprovoked termination of the target's activities, liquidation, or bankruptcy, with damages incurred by the target
- C. The target's **activities have been terminated or suspended** fully or partially, and/or the **volume of manufacturing and sales** of products (work performed or services provided) **has decreased significantly**
- D. The continuation of the target's activities without the introduction of external administration **may result in the events cited in clause C above**
- E. The elimination of the grounds for imposing external administration envisaged by clauses C and D above **may require the spending of funds from the budget** of Russia or one of its regions.



| Premeditated and fictitious bankruptcy

1. CRIMINAL LIABILITY FOR PREMEDITATED BANKRUPTCY (Article 196 of the Criminal Code)

Premeditated bankruptcy refers to actions (inaction) that clearly result in the inability to fully satisfy a creditors' claims and cause damage of more than RUB 2,500,000 (approximately USD 22,000).

- Should be applied in the event a company leaves accounts payable before terminating its business
- Should not be applied in the event a company leaves Russia after winding down its operations and terminating its employees if the company has been making due payments to third parties.

2. CRIMINAL LIABILITY FOR FICTITIOUS BANKRUPTCY (Article 197 of the Criminal Code)

Fictitious bankruptcy refers to a knowingly false public announcement by a legal entity's director (CEO) or founder (shareholder or participant) that the legal entity is insolvent.

- Provided that a company fully repays its debts to creditors and employees' salaries, it should not face charges of fictitious bankruptcy.

Issues with executing contracts (draft law) (1)

1. Frustration of contract

If it becomes objectively impossible to perform an obligation in part or in full due to the unfriendly actions by foreign states and international organizations involving the imposition of restrictive measures against Russian citizens and Russian legal entities (“**Foreign Sanctions**”),



the obligation should be terminated in full or as it pertains to the relevant part.

If an entity that has failed to perform or improperly performed an obligation proves that its proper performance was objectively impossible at the time due to Foreign Sanctions,



this entity should still be considered to have an outstanding obligation but should not be liable for the failure to perform or the improper performance of its obligations (i.e., the suspension of performance).

Note: As a default rule, a debtor should not be considered to have breached an obligation unless otherwise stipulated by an agreement that was concluded after the Draft Law took effect.

Issues with executing contracts (draft law) (2)

2. Unilateral termination of a contract

If a counterparty fails to perform or improperly performs an obligation because this has become **objectively impossible at the time** due to Foreign Sanctions,



the other party should be entitled to **repudiate** the contract.

Note: A party that refuses to execute a contract must notify the other party about this within a reasonable time before such repudiation takes place.
Note: As a default rule, pledges to ensure the performance of obligations under a contract will remain in effect.

3. Pledge deposit



For parties to a contract concluded after February 23, 2022, a pledge may consist of shares, bonds, other securities, or fungible goods that may or may not be transferred as part of the obligation to be secured.

Issues with executing contracts (draft law) (3)

4. Debt repayment under loan agreements

In the context of Foreign Sanctions, when the term comes due and/or other circumstances materialize as part of a loan agreement in which a Russian joint-stock company received a loan from a foreign entity that controls it,



instead of performing the obligations, the Russian joint-stock company should be allowed to place additional shares of a certain category (type) in the lender's favor (subject to statutory limitations). For this purpose, the company should be entitled to issue preferred shares whose nominal value may exceed 25% of the company's share capital.

Note: The Draft Law does not allow persons who “facilitated Foreign Sanctions” to cite the provisions indicated in items (1) – (4) above. At present, this wording is not entirely clear in terms of whether this rule would apply to foreign persons who support sanctions, contribute to their imposition, or follow or comply with them.

Bill on the nationalization of assets owned by beneficiaries from unfriendly jurisdictions

Note: The [Bill](#) is in its early stages and might just be a populist measure that will never be adopted and become law.

The Bill and an explanatory note thereto state that assets owned by beneficiaries from unfriendly states could be nationalized by the state due to “unfriendly activities” against Russia, Russian citizens, and legal entities incorporated under Russian law.

Assets subject to nationalization

- Movable and immovable property
- Cash
- Bank deposit accounts
- Securities
- Corporate rights
- Other property (assets) which directly or through affiliated persons belong to beneficiaries from unfriendly jurisdictions

Procedure and grounds for nationalization

The procedure and the list of beneficiaries from Unfriendly States that fall under the Bill would be determined by the regions of the Russian Federation. The nationalization of assets would be carried out based on a decision by the state authorities of the regions of the Russian Federation where the assets subject to nationalization are located.

Compensation for nationalized assets

The Bill stipulates that no compensation will be provided for nationalized assets.

Disputing the decision to nationalize assets

The Bill expressly states that a court’s acceptance of foreign investors’ claims would not stop the nationalization procedure.



| | Recent trends in litigation
and arbitration

Exclusive jurisdiction over sanctions-related disputes (1)



Federal Law No. 171-FZ dated June 08, 2020 (the “**Law**”) states that, as a default rule, **Russian arbitrazh (commercial) courts have exclusive jurisdiction** over the following disputes:

- Disputes involving entities under the sanctions of foreign states, state associations, and institutions
- Disputes between Russian entities, between Russian and foreign entities, or between foreign entities based on sanctions against Russian citizens or organizations

Exception: jurisdiction does not apply if there is (i) **an international treaty** or (ii) **a prorogation agreement** in favor of a foreign court **or an arbitration agreement** in which the place of arbitration is located outside of the Russian Federation.

Note: If a prorogation or an arbitration agreement is “unenforceable” due to the impact of anti-Russian sanctions barring a sanctioned Russian entity from access to justice, **Russian courts would have jurisdiction over the dispute.**

Exclusive jurisdiction over sanctions-related disputes (2)



UralTransMash v. PESA case (A60-36897/2020)

- In the dispute, Russian courts were considering the possibility of prohibiting the Polish company RTS PESA Bydgoszcz from continuing foreign arbitration which it initiated against UralTransMash JSC (a so-called “anti-suit injunction”)
- The Supreme Court’s key conclusion was that the **imposition of sanctions as such already creates a barrier for Russian entities to access justice**, affects their rights and reputation, and thus puts them in an unequal position vis-à-vis other entities, and casts doubt on the guarantees of a fair trial, including those related to a court’s impartiality

It is unclear whether this rule applies if the place of arbitration is not a country that has imposed sanctions against the Russian entity

Further expected amendments



Draft Law No. 25200-8 proposed giving Russian state courts exclusive competence over **all disputes between a Russian or foreign party**, where one of them directly or indirectly (including through its affiliated and/or controlling entities):

- Has helped contribute to the imposition of sanctions, including by providing financial or other assistance to proponents of the relevant sanctions
- Has received unjustified preferences and/or benefits from sanctions, including abroad
- Has failed to perform or improperly performed an obligation due to sanctions

Status: The Bill has not yet passed its first reading in the Russian State Duma and its content may eventually be significantly amended.

Note: The effect of such a Bill would be that a potential Russian or foreign entity ("**Claimant**") that incurred damages from another Russian or foreign entity ("**Respondent**"), which encouraged the imposition of sanctions against the Claimant or terminating existing relations with the Claimant to comply with sanctions, or obtained other advantage over the Claimant resulting from the imposition of sanctions, would be entitled to file a claim in Russian state courts against the Respondent, regardless of the provisions of the contract or equally any other legal provisions of applicable law on dispute resolution.

Assumptions and limitations

This Summary is subject to the limitations, assumptions, and other matters cited below.

- This Summary has been prepared solely for the purpose of providing an overview of the counter-sanctions that Russia imposed in February – April 2022, the related measures of the CBR, the criminalization of certain activities as regards sanctions, as well as recent trends in arbitration in light of foreign sanctions.
- This Summary is based on information and legislation that is relevant and valid as of April 18, 2022.
- Our overview and this Summary are limited to matters of Russian law only. This Summary is to be construed in accordance with Russian law and our liability with respect to this report is to be governed by Russian law.
- This Summary represents our opinion on the respective matters, whereas Russian courts and the state authorities may interpret applicable regulations in a different way. Additionally, considering that the counter-sanctions and the Central Bank's measures are urgent and rather general in nature, there is uncertainty about how all these measures will be implemented in practice.
- The authors of this Summary do not bear and will not bear liability with regard to any adverse consequences, including direct and/or indirect losses, expenses, or damages that are connected directly or indirectly with actions or inaction taken as a result of this Summary.
- The contents of this Summary are provided solely for the Client's information, are confidential in nature, and may not be disclosed to third parties without the prior written approval of ALRUD, unless such disclosure is required by law.

Contact details



Andrey Zharskiy
Partner, Sanctions and
Compliance,
Corporate/M&A, Energy,
Natural Resources &
Infrastructure, Real Estate

andrey.zharskiy@alrud.com



Anton Dzhuplin
Partner, Sanctions and
Compliance,
Corporate/M&A,
Financing (Banking &
Finance), Capital &
Equity Markets

adzuplin@alrud.com



German Zakharov
Partner, Sanctions and
Compliance,
Competition/Antitrust,
Foreign Direct
Investments

gzakharov@alrud.com



Timur Akhundov
Of Counsel, Sanctions
and Compliance,
Corporate/M&A, Energy,
Natural Resources &
Infrastructure

takhundov@alrud.com

ALRUD

ALRUD