

Newsletter No. **203**

Swiss sanctions in relation to the situation in Ukraine

Over the past two months, the Swiss Federal Council has implemented the twelfth and thirteenth sanctions packages adopted by the European Union on 18 December 2023 and 23 February 2024, respectively. The entities and individuals newly sanctioned with this package were added to the Swiss list of sanctioned entities and individuals on 21 December 2023 and 29 February 2024, while the Ordinance was amended first on 31 January 2024 and then on 1 March 2024, providing new measures and the expansion of the existing ones. The sanction packages impose further restrictions on the financial and service sectors and on the trade sector, including bans on dual-use goods and items that could contribute to the military and technological advancement of the Russian Federation. They also target revenue streams critical to the Russian economy, such as the importation of significant goods.

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

On **31 January 2024** the Swiss Federal Council enacted additional measures against the Russian Federation, aligning with the European Union's twelfth sanction package adopted on **18 December 2023**. The European Union adopted a further package on **23 February 2024**, which the Swiss Federal Council implemented on **1 and 20 March 2024**. These packages introduced new measures and enhancements to existing sanctions, aimed at preventing the circumvention of the sanctions and at strengthening their enforcement. The Swiss Federal Council opted to not implement all measures introduced by the European Union's twelfth package. Specifically, the notification requirement for the transfer of funds to third countries from EU-based companies, controlled by Russian nationals and residents, was excluded.

The **twelfth sanctions package** targets export revenues by imposing commercial bans on critical goods for the Russian Federation. These sanctions not only expand existing measures, but also introduce restrictions on the purchase and import of new goods, such as Russian diamonds and other significant revenue-generating goods for the Russian Federation. Additionally, the existing export restrictions have been broadened to cover additional goods which may enhance the military, technological or industrial capabilities of the Russian Federation. Also included were additional measures supporting the restriction to the oil price cap and preventing attempts to circumvent it. Further restrictions were also introduced in the service sector, prohibiting the provision of specific types of software to entities in the Russian Federation. The **thirteenth sanctions package** extends the export restrictions to 27 additional entities. The latest version of 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 **Ordinance**) came into force on **22 March 2024**.

In the context of the twelfth package, a number of entities and individuals have been added to the list of sanctioned individuals and entities (Annex 8 to the Ordinance).

Amendments to the Ordinance

Financial restrictions

1. Specifications regarding the asset freeze

Article 15 of the Ordinance mandates the freezing of assets belonging to individuals and entities listed in Annex 8 to the Ordinance as well as those acting under their instructions or control and prohibits making assets available to sanctioned parties, whereas SECO can grant exemptions in determined circumstances. The amended Ordinance introduces a **new exemption** allowing SECO to allow payments to Crimean seaports for services provided to other ports.

Additionally, SECO may authorise the **release from the asset freeze** or the

provision of economic resources to sanctioned individuals and entities when a judicial or administrative authority in Switzerland, an EEA member State, or the United Kingdom has issued a decision in the public interest to seize economic resources from a sanctioned party. Such authorisation is contingent on the condition that any compensation for the seized resources remains frozen. Moreover, this authorisation can be granted to facilitate payments agreed upon by parties or compensation determined by judicial or administrative authorities, or established by law, especially in cases of compulsory ownership or control transfers by the Russian government or authority over sanctioned Russian entities listed in Annex I to European Regulation No. 269/2014. These entities must have been

previously owned by an entity established in Switzerland, an EEA member State, or the UK. However, this provision does not extend to frozen assets held by Central Securities Depositories.

In its Guidelines, SECO has clarified the normal administrative actions that are exempt from the freezing of assets and thus can be carried out by financial institutions without authorisation, such as the collection of fees (e.g., account management fees) and the booking of interest. SECO also confirmed that individuals and institutions that hold or manage assets or are aware of assets presumed to be subject to freezing are advised to first consult SECO before a possible release, which may be then approved by SECO.

2. Specifications regarding the granting of loans

Article 19 of the Ordinance stipulates the prohibition, in determined circumstances, to provide loans to specific borrowers, allowing for several exemptions. The amended Ordinance introduces a **new requirement** for these exemptions, i.e. the loan must have been notified to SECO within three months from the date of the loan issuance. Further, Article 28b of the Ordinance addresses restrictions on entities in the energy sector, focusing on the provision of loans and participation in loan agreements with specified entities. The amended Ordinance clarifies that the restrictions apply solely to new loans.

3. Specifications regarding the prohibition to accept deposits and crypto-based assets

The Ordinance has **expanded the prohibition to accept deposits and crypto-based assets**, by incorporating a new paragraph, effective as of 2 March 2024, prohibiting Russian nationals or individuals resident in the Russian Federation from acquiring either direct or indirect ownership, or gaining new direct or indirect control, of entities incorporated or constituted under the laws of Switzerland or any EEA member State that commercially provides services related to crypto wallets, crypto accounts, or the custody of crypto-based assets. Additionally, the amendment forbids these individuals from exercising any new roles within the governing bodies of such entities.

Commercial restrictions

4. Diamonds and products with diamonds

The amended Ordinance introduces **various restrictions regarding diamonds and diamond related products**, delineating the targeted goods in a newly

established Annex 27a to the Ordinance. The purchase, import, transit and transport into and through Switzerland of diamonds and diamond products from the Russian Federation or of Russian origin as well as of any origin but exported through the Russian Federation is now prohibited. Additionally, the ban extends to the acquisition of diamonds and diamond products processed in a third country that either consist of or contain diamonds from the Russian Federation or of Russian origin, as well as their subsequent import, transit, and transport into and through Switzerland. For this ban, the Ordinance has introduced **weight categories**. The restrictions on diamonds processed in a third country are effective since 1 March 2024, for diamonds of at least 1 carat, and will be effective as of 1 September 2024 for those of at least 0.5 carats. In these cases, evidence must be readily available to ascertain the origin of the diamonds processed in the third country and those incorporated into diamond products, such as Kimberley certificates, invoices, and customs documents, among others. For diamonds and diamond products available in the European Union before 1 March 2024, alternative evidence for the first market placement is acceptable. This evidence must be included in the customs declaration.

Similarly to the other restrictions outlined in the Ordinance, the ban on diamonds and diamond products encompasses the **prohibition of providing services** of any kind, including financial services, brokerage and technical assistance, as well as the provision of financial resources related to the purchase, import, transit and transport in and through Switzerland. It also extends to activities involving the provision, manufacture, repair or use of diamonds and diamond products specified in the Ordinance.

Exemptions are foreseen for products containing diamonds defined in Annex 27a intended for the personal use of individuals entering Switzerland or immediate family members traveling with them, that are owned by the concerned individuals and are not intended for sale. Further exemptions can be granted by SECO in the instance of cultural goods on loan within the framework of official cultural cooperation with the Russian Federation.

5. Restrictions regarding software

Under the amended Ordinance, the limitations on services are increased by **additional restrictions on services related to softwares**. It now prohibits the sale, supply, export, transport and transit through Switzerland, as well as the provision of softwares used for business management, industrial design, and manufacturing – as detailed in Annex 32 – to the Russian Federation or to entities established in the Russian Federation. Furthermore, the Ordinance has been expanded to include a ban on providing any type of service, including financial services, brokerage, technical advice, and financing related to the services or softwares specified in the Ordinance, or associated with their sale, export, transit, transport or provision to or for use in the Russian Federation. Exemptions may be granted by SECO if a given software is required for the contribution of Russian nationals to international open-source projects.

Additionally, it is specified that the restrictions do not apply to services and softwares intended for the exclusive use of entities established in the Russian Federation owned or controlled solely or jointly by legal entities incorporated or registered under Swiss law, the law of an EEA member State or the law of a partner. These entities must notify SECO about the services or softwares they provide or make available by 31 July 2024

and subsequently on a semi-annual basis. The notifications must include the names of the beneficiaries and detailed information on the nature and value of the services or softwares provided.

6. Oil price cap

The Ordinance imposes restrictions on the trade of oil and petroleum products from the Russian Federation or with Russian origin, including related technical and financial services. Exceptions are provided under certain conditions, such as for goods priced below the cap established in Annex 28 to the Ordinance. The revised Ordinance requires that individuals and entities who provide services and lack access to the specific price cap per barrel set out in Annex 28 must submit **detailed information on ancillary costs** for the concerned goods shipped after 20 February 2024, in order to qualify for the exemption. This information shall be obtained from operators higher in the supply chain and be made available to counterparties and SECO on request. Moreover, the Ordinance mandates that all transactions for the purchase or transport to countries outside Switzerland of natural gas condensates with the customs tariff number 2709.0010 (Crude petroleum oils and oils obtained from bituminous minerals, used as a fuel) from or originating in the Russian Federation must **be reported to SECO within two weeks**. These reports should detail the quantities purchased or transported.

The amended Ordinance introduces new reporting and authorisation requirements to monitor **the sale of tankers** potentially used to circumvent the oil price cap. According to the Ordinance, the sale, delivery, export, transport and transit of tankers for the transport of crude oil and petroleum products as listed in Annex 24 and falling under customs tariff number

8901.2000 (cargo ships, barges and similar vessels for the transport of persons or goods: tankers), as well as any other transfer of ownership of such goods to individuals or entities in the Russian Federation or for use in the Russian Federation is subject to authorisation. Authorisations will be denied if there is a suspicion that the tankers are being used to violate the prohibitions outlined in the Ordinance. Immediate reporting to SECO is required for sales and other transfers of ownership of tankers to third countries, including details such as the identity of both the seller and buyer, if applicable the incorporation documents of the seller and the buyer, shareholding structures, management details, the IMO ship identification number of the tanker and its call sign. Transactions that occurred between 5 December 2022 and 1 February 2024 must be reported to SECO by 3 May 2024.

7. Contractual obligation to prevent re-exportation

The Ordinance now includes new specific obligations for exporters in the context of a sale, delivery, export, transport and transit of goods outlined in Annexes 3 and 19 as well as high-priority goods specified in Annex 31 to a third country outside the EEA or to a partner. Exporters are now required to ensure that their contracts with counterparties **expressly forbid the re-exportation** of these goods to, or for the use in, the Russian Federation. These contracts must also outline suitable remedial measures in the event of a breach. While SECO did not dictate specific formulations, it has proposed wording in the updated Guidelines. Exporters must promptly report such breaches to SECO. However, this restriction does not apply to transactions that were contractually agreed before 1 February 2024. These

transactions must either be completed or have their contracts expire by 20 December 2024, depending on which event occurs first.

8. Further notable changes

The amended Ordinance has broadened the scope of **restrictions on iron and steel products**. Now, imports of iron and steel products listed in Annex 17, which have been processed using iron or steel products from, or with origin in, the Russian Federation and are imported from a third country outside the EEA or the United Kingdom, must include evidence on the origin of the raw materials processed in the third country. This documentation must be included in the customs declaration. On the restrictions on iron and steel products, SECO specified in the Guidelines that these apply to products containing Russian raw materials imported after 30 September 2023, manufactured or processed after 23 June 2023. Products manufactured or processed before this date are not subject to restrictions. Since 1 March 2024, proof of processing in a third country for iron and steel products according to Annex 17 must be included in the customs declaration.

The Ordinance targets economically significant goods by imposing various trade restrictions. The revised Ordinance adds exemptions to these restrictions, allowing for the import of specified goods under certain conditions. These exemptions include **personal items** carried by individuals traveling to Switzerland and not intended for sale, and **vehicles** under specific circumstances.

The eleventh sanctions package introduced a prohibition against transporting certain goods through the Russian Federation, including dual-use goods, defense equipment

(*Rüstungsgüter/ biens d'équipement militaires*), or goods utilized in the aviation and aerospace industries. This ban has been expanded to include goods that strengthen the Russian Federation's industrial sector. In specific cases SECO is authorised to grant exemptions if necessary for the production of titanium goods essential for the aviation industry that cannot be sourced elsewhere.

The amended Ordinance **extends various deadlines**, such as those for SECO-granted exemptions related to disinvestment activities from the Russian Federation. It also extends deadlines for exemptions for various other restrictions and commercial activities.

Building on the clarification concerning the provision of loans within the energy sector, the amended Ordinance specifies that SECO may permit **exemptions** from the ban on providing or participating in new loans, credits, or other financial resources, including equity. This applies to entities, companies, or organizations established outside Switzerland and the EEA that operate within the Russian Federation's energy or mining sectors. Exemptions can apply on transactions related to energy projects outside the Russian Federation, where State owned entities per Annex 15 are minority shareholders, that are crucial for maintaining operations of a deep-water offshore gas project in the Mediterranean Sea. This condition applies if these entities have been minority shareholders since before 31 October 2017, and the project is exclusively controlled or operated by—or in collaboration with—a legal entity established under Swiss law or the law of an EEA member State.

Newly sanctioned entities and individuals

Approximately **86 entities** and **61 individuals** were added as of **21 December 2023**, and further **88 entities** and **106 individuals** were added on

29 February 2024 to the list of sanctioned individuals and entities (Annex 8 to the Ordinance), to whom Article 15 of the Ordinance (Asset freeze), respectively, Article 16 of the Ordinance and Article 29 of the Ordinance (Prohibition on entering or transiting through Switzerland) apply. The added individuals and entities include figures in the Russian military and defense and in the IT sector, as well as other important economic figures. By adapting these lists, Switzerland is aligning with the measures taken by the European Union. Also, entries for **97 individuals** and **9 entities** were **amended** and **12 individuals** were **removed** from the list on 21 March 2024.

Sanctions against Belarus – newly sanctioned entities and individuals

Effective on 22 March 2024, some **23 individuals and entities** have been added by the Federal Department of Economic Affairs, Education and Research (**EAER**) to the list of sanctioned individuals and entities under Annex 13 to the "Ordinance on Measures against Belarus" (*Verordnung über Massnahmen gegenüber Belarus / Ordonnance instituant des mesures à l'encontre du Bélarus*).

SECO's updated guidelines

On **1 February 2024**, **11 March** and **16 May 2024** SECO has updated its guidelines (originally issued on 16 March 2022) (the **Guidelines**) on the interpretation of the Ordinance. These updated Guidelines introduce general guidance and specify details related to a number of provisions of the Ordinance, with respect to the new or expanded measures introduced by the twelfth and thirteenth packages, as well as to other existing measures.

Amongst others, the updated Guidelines provide that financial institutions must submit to SECO updated figures on all blocked assets by 15 February of each year (16 February 2024, for the first time). Entities holding or managing funds or

economic resources for individuals and entities listed in Annex 8 are required to report all transactions to SECO, and this is applicable to both current and future Annex 8 entries. Regarding the documentation of compliance on the supply chain of Russian crude oil or petroleum products, SECO references the very detailed FAQ of the European Union on this topic for ensuring and documenting compliance with specific provisions (see the [consolidated FAQ of the European Union, section 5](#)). It is further specified that Russian nationals applying timely for residence permit renewal in specified regions and whose process is ongoing remain exempt under Article 20 paragraph 3 (exemption related to the prohibition to accept deposits of crypto-based assets). Moreover, SECO clarified that Article 20 of the Ordinance is not applicable to payments from a pension fund. Regarding the handling of existing cryptocurrency wallets or crypto accounts, SECO specifies that, following the prohibition set in Article 20, service providers must close existing cryptocurrency wallets and crypto accounts of Russian nationals or entities residing in the Russian Federation. Balances must be returned to the clients or converted into non-sanctioned assets.

An overview of the Guidelines can be found in our previous Newsletters:

No. 166 ([see here](#)),
No. 168 ([see here](#)),
No. 174 ([see here](#)),
No. 177 ([see here](#)),
No. 180 ([see here](#)),
No. 183 ([see here](#)),
No. 193 ([see here](#)), and
No. 197 ([see here](#)).

Conclusion

Considering the extensive scope of the sanctions under the Ordinance 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 Ordinance can be found in our previous Newsletters Nos. 164, 166, 167, 168, 173, 174, 177, 180, 183, 193 and 197 on the topic, released on:

11 March 2022 ([see here](#)),
18 March 2022 ([see here](#)),
1 April 2022 ([see here](#)),
2 May 2022 ([see here](#)),
1 July 2022 ([see here](#)),
11 August 2022 ([see here](#)),
2 September 2022 ([see here](#)),
25 November 2022 ([see here](#)),
8 February 2023 ([see here](#)),
1 August 2023 ([see here](#)), and
31 October 2023 ([see here](#)) 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, 2024

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.hillerstroem@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



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