

SANCTIONS AGAINST RUSSIA: BE PREPARED!

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As the situation in Ukraine deteriorates, the possibility of further sanctions against Russia and Russian interests continues to dominate the agenda. As a result, energy sector businesses which have commercial connections with Russia need to keep a careful eye on political, business and legal developments, to avoid falling foul of new restrictions.

As a result of the current EU and US asset freeze it is essentially unlawful to deal with a sanctioned individual or entity - their funds and assets are blocked and it is prohibited to provide them with further funds or assets.

Because these restrictions apply even to the indirect supply of funds and assets, and because companies which are owned or controlled by, or act on behalf of, sanctioned individuals and entities are effectively treated as sanctioned entities themselves, the asset freeze applies to

a wide network of companies and individuals. Concern amongst banks about breaching the asset freeze may cause even unaffected payments involving Russian interests to be delayed.

Every company with any business interests relating to Russia should therefore be looking very carefully at their counterparties, and any other relevant Russian interests, to check that these relationships are not prohibited, and consider the risk that these counterparties may be added to sanctions lists in the future.

At the present time, there are no restrictions which are targeted specifically at the energy sector, such as bans on the purchase of Russian gas, but the possibility that such restrictions might be imposed has been widely discussed in diplomatic circles.



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Given the important trading relationship between Russian and many EU Member States, and the added difficulty of building consensus between countries in the EU, the US may impose restrictions targeted at the energy sector before the EU does so.

If restrictions are imposed, they may well have immediate effect (as opposed to a phased introduction). There may therefore be limited time to assess the impact of the restrictions on imminent (and continuing) performance obligations, with the risk of substantial financial penalties being imposed for getting it wrong.

In order to be prepared, every energy company with any business interests relating to Russia should be using the current period of relative calm in relation to sanctions to review their contracts and assess whether there is scope to suspend or terminate their obligations in the event further restrictions are imposed. They will also want to liaise closely with their banks and insurers, to check that they have the support of those institutions. Likewise, the terms of any new contracts should be carefully scrutinised and protective language included.

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