

The EU's 14th Sanctions Package and UK Shipping Sanction: Implications for the Insurance Industry

🔔 Market Insight ⌚ 22 August 2024 🌍 UK & Europe 📄 Sanctions

On 25 June 2024 the Council of the European Union (EU) adopted a 14th package of sanctions (14th Package) in response to Russia's ongoing aggression in Ukraine.

The 14th Package targets Russia's critical and high-value sectors, particularly the energy industry. As well as designating a further 116 individuals and entities and tightening trade restrictions, the EU has in part followed the UK's approach by introducing, for the first time, trade restrictions on liquefied natural gas (LNG) and on specific vessels. However, as we discuss below, there are differences between the UK and EU's restrictive measures in these areas, which have potentially wide-ranging implications for those undertaking sanctions compliance in the (re)insurance industry.

A. What's new in the 14th Package?

The 14th Package has introduced significant changes to the EU-Russia sanctions regime, which are more extensive than those introduced by the 13th sanctions package that was adopted earlier this year. The key measures introduced are as follows:

1. Anti-circumvention efforts

The EU has introduced a “*best efforts*” obligation on EU parent companies to “*undertake their best efforts to ensure that any legal person, entity or body established outside the Union that they own or control does not participate in activities that undermine the restrictive measures provided for in this Regulation*”^[1]. Whilst the term “*best efforts*” is not defined in the Regulation, recitals to the Regulation (which are non-binding) state that this will include all actions that are “*suitable and necessary*” to ensure that affiliates do not undermine the EU's sanctions, including “*the implementation of appropriate policies, controls and procedures to mitigate and manage risk effectively*”.

Since the adoption of the 14th Package, there has been debate as to whether the new anti-circumvention provisions, particularly the “*best efforts*” requirement in respect of third country subsidiaries, have caused EU sanctions to have an extra-territorial effect similar to certain U.S. sanctions. The EU has released an FAQ^[2] on this point, taking the stance that EU sanctions are not extraterritorial, and emphasising that it is important that foreign subsidiaries of EU companies do not engage in activities that undermine the purpose of EU sanctions.

Further, the 14th Package tightens anti-circumvention measures by lowering the knowledge threshold to establish liability. Now, it is sufficient to show that a person was aware that their participation in an activity may have had

the object or effect of circumventing sanctions and that this possibility was accepted by that person.

2. Financial sanctions

The 14th Package designated a further 116 entities and individuals, following some of the UK's designations including Russian airline, Volga Dnepr Airlines, and Russian shipping company, Sovcomflot, as asset freeze targets. The grounds for these designations are primarily that they obtain a benefit from or support the Government of Russia by carrying on business in sectors that are of high strategic significance to Russia, namely its defence, transportation, financial services or energy sectors. Unlike the UK, the EU designated Volga Dnepr Group, which is the holding company of UK designated Volga Dnepr Airlines, and other subsidiaries that provide transportation services by importing third countries electronics, IT and communication equipment that is relevant to Russia's aggression in Ukraine.

3. Energy-related LNG restrictions

Whilst the UK placed restrictions on LNG some time ago, such as a prohibition on the import of LNG originating in Russia[3], the EU has previously not targeted LNG due to its heavy reliance on Russian LNG imports.

However, in a first for the EU, the 14th Package targets Russian LNG[4], adding further pressure on a key part of the Russian economy. Although it does not prohibit LNG imports from Russia completely, the 14th Package prohibits the import, purchase and transfer of Russian LNG through LNG terminals that are not connected to the EU gas pipeline i.e. so as to prevent Russian LNG entering EU territory where it is not to be used in the EU.

Further, the measures restrict any sale, supply, transfer, or export of goods and technology for completion of LNG projects under construction in Russia, and the provision of reloading services in the EU for transshipment operations of LNG originated in Russia.

The EU has also introduced a corresponding financial services restriction – including on the provision of (re)insurance – in relation to all of the LNG-related prohibitions.

4. Dual-use goods and technology restrictions

Measures on dual-use goods and technologies were introduced to further weaken Russia's military industry and capabilities. Amongst further import restrictions, the 14th Package extends the list of items that are considered dual-use goods and technology (and goods and technology which may be used to contribute to the technological enhancement of Russia's defence and security sector) and has added 61 entities to the list of entities subject to tighter export restrictions regarding such goods.

5. Shipping sanctions

(i) EU Shipping Sanctions

As mentioned above, the EU has adopted a new measure targeting 27 specific vessels for the first time. Now listed in Annex XLII[5] of the Council Regulation (EU) 833/2014 (**Reg. 833/2014**), the EU-designated vessels are not subject to asset freeze measures, but are subject to shipping sanctions, which prohibit, in respect of the designated vessels:

- (i) access to EU ports, anchorage zones and locks;
- (ii) import, purchase, transfer, supply or export of such vessels;
- (iii) operating or crewing designated vessels;

(iv) providing services to designated vessels (flag registration, financing, financial assistance – including (re)insurance – brokering services, technical assistance and other services); and
(v) engaging in ship-to-ship transfers, transfers of cargo with or procuring services from designated vessels to a port access ban and ban on the provision of services.

The designated ships were designated on a broad variety of grounds that include: (i) their support to the Russian Government by transporting goods and technology that can be used as military equipment; (ii) transporting stolen Ukrainian grain; (iii) transporting LNG components and aiding the development of Russia's energy sector; or (iv) due to their ownership or operation by EU designated persons or use to the benefit of or on behalf of EU designated persons. Importantly, the EU has targeted vessels that are part of the 'shadow fleet' for circumventing the Oil Price Cap[6] (OPC) by transporting Russian crude oil[7] or petroleum products[8] purchased above the OPC to third countries.

These novel shipping measures introduced by the 14th Package may carry significant implications for sanctions due diligence, particularly for insurers and other financial institutions, including insurance brokers. We discuss these practical implications, as well as drawing out the key distinctions to the shipping measures introduced by the UK earlier in June, in further detail below.

(ii) UK Shipping Sanctions

The designation of 27 vessels under the 14th Package came shortly after the UK announced the designation of 6 ships under the Russia (Sanctions) (EU Exit) Regulations 2019 (**UK-Russia Regulations**) for the first time on 13 June 2024. On 18 July 2024, the UK designated a further 11 ships under the UK-Russia Regulations for attempting to undermine sanctions by supporting the oil and military goods trade.

Similar to the EU, the designated ships are subject to certain shipping sanctions but are not asset freeze targets. The UK designated ships are not subject to the extensive EU prohibitions listed above. They are only subject to a port access ban and there is no corresponding ban on the provision of financial services (including (re)insurance) to designated ships under the UK-Russia Regulations.

Some vessels are designated by both the UK and the EU, those being: LADY R (IMO: 9161003), OCEAN AMZ (IMO: 9394935), CANIS POWER (IMO 9289520), SCF AMUR (IMO: 9333436) and NS LOTUS (IMO: 9339337). These ships are said to be carrying oil or oil products originating in Russia from Russia to a third country or, in respect of LADY R, military goods from a third country to Russia or a non-government controlled Ukrainian territory.

B. Challenges with Shipping Sanctions Compliance

The shipping sanctions introduced by the UK and EU are direct measures to disrupt Russia's efforts to bypass the G7 led OPC by using a 'shadow fleet' to continue the export of Russian oil above the OPC. The UK and EU shipping sanctions should make operating such vessels more challenging for those involved.

With the arrival of shipping sanctions, sanctions due diligence will need to include the consideration and screening of relevant vessels. Whilst usual compliance screening of UK and EU Consolidated Lists should pick up designated persons and entities subject to asset freezes, vessels subject to shipping sanctions are not listed in the same way. Insurers and other financial service providers should therefore carefully consider whether their usual screening tools will identify whether a vessel is subject to these new shipping sanctions.

Lloyd's List Intelligence Team have highlighted some discrepancies where designated vessels have not come up using usual sanctions search tools and that it may take time until a designated vessel is accurately reflected on

such compliance tools. We note that the Foreign, Commonwealth & Development Office have launched a new search function on 1 August 2024 that will enable users to search for designated persons, entities and ships.

Considering how sanctions due diligence should be conducted in light of the new shipping sanctions will be of particular importance to the insurance industry. EU shipping sanctions are more expansive than the UK ones, as the EU also prohibits the provision of (re)insurance and broking services to designated vessels. This is another example of a divergence between the UK and EU sanctions regimes of which insurers will need to be mindful.

As mentioned in our previous [article](#) which highlighted the divergence between the EU and the UK prohibitions in respect of the diamond ban, companies that are subject to both the UK and EU sanctions regimes should consider how best to remain operationally compliant with each set of ship designations.

[1] Article 8a, Reg 833/2014

[2] [Q&A 14th package of restrictive measures against Russia \(europa.eu\)](#)

[3] UK-Russia Regulations, reg 46Z25

[4] LNG falling under CN code 2711 11 00

[5] Inserted by Council Regulation (EU) 2024/1745

[6] The OPC is currently set at USD 60 per barrel for Russian crude oil, USD 100 for high value petroleum products and USD 45 per barrel for lower value products.

[7] CN code 2709 00

[8] CN Code 2710

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