

## Tax & Legal Weekly Alert

22 – 26 September 2014

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#### Tax Updates

##### **Update to the additional strengthening of the restrictive measures against Russia**

In August, we informed you regarding restrictive measures imposed by the European Union ('EU') with respect to the export of certain products and services to the Russian Federation ('Russia'). Due to the political situation in Eastern Ukraine, the European Council decided to strengthen the existing restrictive measures – [page 2](#)



## Update to the additional strengthening of the restrictive measures against Russia

The reinforced measures mainly focus on strengthening the controls with respect to 1) the export of dual use goods, products and services, 2) the transfer of sensitive technologies and goods that can be used in the energy sector and 3) further restricting access to the EU capital markets for an increased list of Russian financial institutions.

The new restrictive measures laid down in [Regulation no. 960/2014](#) entered into force on September 12, 2014.

### 1) *Export of dual use goods and technology*

The new measures specifically prohibit the export of dual use goods and technology and related services, such as technical assistance, brokering or providing financing or financial assistance for these goods to the following Russian entities:

- JSC Sirius (optoelectronics for civil and military purposes);
- OJSC Stankoinstrument (mechanical engineering for civil and military purposes);
- OAO JSC Chemcomposite (materials for civil and military purposes);
- JSC Kalashnikov (small arms);
- JSC Tula Arms Plant (weapons systems);
- NPK Technologii Maschinostrojenija (ammunition);
- OAO Wysokototschnye Kompleksi (anti-aircraft and anti-tank systems);
- OAO Almaz Antey (state-owned enterprise; arms, ammunition, research);
- OAO NPO Bazalt (state-owned enterprise, production of machinery for the production of arms and ammunition).

Please note that these prohibitions are not applicable for the execution of contracts or agreements concluded before September 12, 2014, and to the provision of assistance necessary to the maintenance and safety of existing capabilities within the EU. In addition, these prohibitions do not apply to the sale, supply, transfer or export of dual use goods and technology for the aeronautics and space industry, or related provision of technical and financial assistance intended for non-military use and for a non-military end user.

### 2) *Services related to the energy sector*

In addition to the new restrictions on export of dual use goods and technology, are prohibited the provision of services related to targets deep water oil exploration and production, arctic oil exploration and production, or shale oil projects in Russia, namely:

- drilling;
- well testing;
- logging and completion services;
- supply of specialised floating vessels.

Please note that these prohibitions are also applicable for the execution of an obligation arising from a contract or a framework agreement concluded before 12 September 2014 or ancillary contracts necessary for the execution of such contracts.

### 3) *Access to the EU capital markets*

The new measures, also prohibit the directly or indirectly purchases, sells, provide investment services for or assistance in the issuance of, or otherwise deal with transferable securities and money-market instruments with a maturity exceeding 30 days, issued after 12 September 2014 by the following legal person, entities or bodies established in Russia:

- Otk Boronprom;
- United Aircraft Corporation;
- Uralvagonzavod;
- Rosneft;
- Transneft;
- Gazprom Neft.

### What does it mean for you?

Although the previous restrictive measures initiated with Regulation 833/2014 did not restrict the exports of dual-use goods and technology for non-military use and/or for non-military end-users, the new measures now also targets companies that have both a military- and a civilian division. In addition, the reinforced measures will severely restrict energy (and affiliated) companies in their ongoing business regarding certain energy related projects in Russia, possibly preventing them to proceed with the activities altogether.

In order to enforce the new prohibitions, the competent authorities have to step up their monitoring activities with respect to all exports to Russia. It can be foreseen that the increased monitoring by the customs authorities of goods and technology in combination with the increased screening of the intended 'end-use' and 'end-users', will further slowdown customs formalities (e.g. the issuance of export authorizations) and customs processing of 'normal' shipments intended for Russia.

### What to do?

It is likely that the reinforced restrictive measures will only increase when the situation in the Eastern Ukraine does not deescalate. Therefore, companies should actively monitor their export control programs, especially the end user with every contemplated sale or shipment to Russia in order to avoid exposure. It is increasingly important to assess whether or not the respective goods are dual use, which party will be the end-user and what the intended end-use will be. Additionally, companies should expect potential delays with respect to future shipments to Russia.

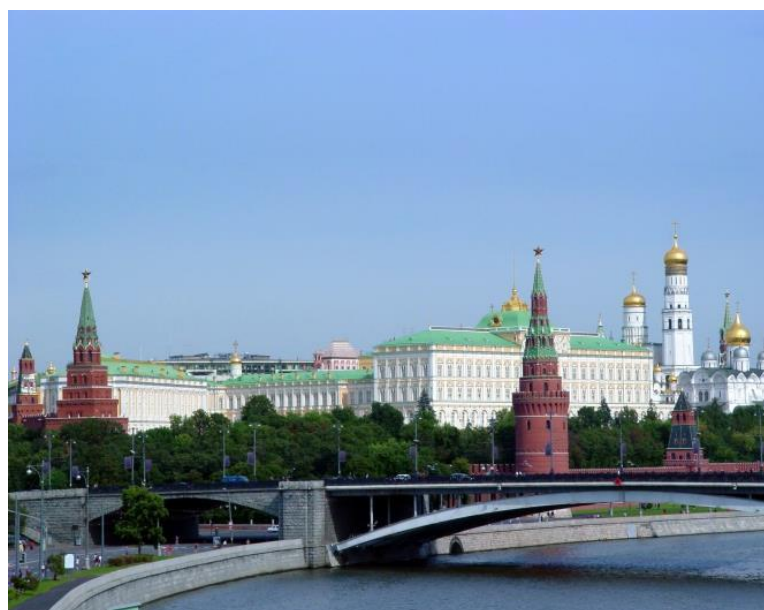
**Should you have any questions or would require our assistance assessing your potential exposure, please do not hesitate to contact us:**

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