

## Newsflash - New Swiss sanctions against Russia and Belarus enter into force

As of 29 April 2022, 06 p.m. CET










Daniel Lucien Bühr, Jonathon E. Boroski, Michael Neumann,  
Vivian Bertoluzzi, Vivien Altwegg

### 1 INTRODUCTION

On 28 April 2022, the latest round of sanctions against Russia and Belarus entered into force in Switzerland (the “**Swiss Ordinance**”). These sanctions are based on the fifth sanctions package introduced by the European Union (“EU”) on 8 April 2022. This update provides an overview of the recent Swiss Ordinance, its most relevant departures from the EU regulations and highlights the prohibition concerning trusts, which will be of particular practical relevance for the Swiss trust industry.

### 2 OVERVIEW

For the most part, Switzerland has adopted the entirety of the most recent EU sanctions. However, the Swiss Ordinance contains certain key deviations from its EU counterpart, in particular longer grace periods, as summarized below:

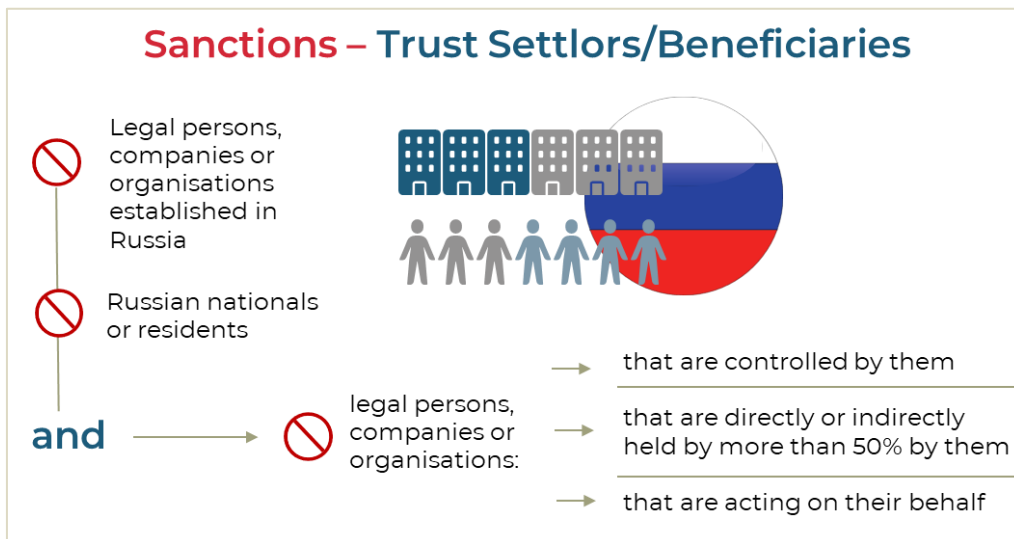
Newly Adopted Sanctions		
 <p>Additional 217 sanctioned individuals and 18 entities (incl. family members of Russian president and numerous oligarchs)</p>	 <p>Ban on the purchase, import or transfer of coal and other solid fossil fuels from Russia</p>	 <p>Restriction on support of Russian public entities in the context of EU and Swiss national programs</p>
 <p>A prohibition on providing high-value crypto-asset services</p>	 <p>A full ban on Russian and Belarussian freight road operators and entry ban on Russian-flagged vessels to ports</p>	 <p>Prohibitions on the export of banknotes and on the sale of transferrable securities in all EU currencies</p>
 <p>A prohibition on providing trusts services involving Russian individuals and entities (see details below)</p>	 <p>Transaction ban on four major Russian banks</p>	 <p>Ban on goods and technology generating significant revenues for Russia (incl. wood, cement, fertilizers, seafood and liquor, etc.)</p>
 <p>A ban on the participation of Russian companies in public procurement</p>	 <p>Additional export bans in areas in which Russia is vulnerable due to its high dependency and on jet fuel and fuel additives</p>	 <p>Additional ban on export of goods for military and technological enhancement, or the development of the defence and security sector</p>

Regarding the flight ban imposed several weeks ago, the Swiss Ordinance differs from the corresponding EU provision in that aircraft are only prohibited to land in, take off or fly over Swiss territory if the aircraft is owned, registered, controlled or chartered by an individual or entity in Russia. The prohibition does not generally apply to the air transport of non-sanctioned Russian nationals.

As the Swiss Ordinance entered into force subsequent to the EU sanctions, the grace periods under the Swiss sanctions have been extended beyond those of its EU counterpart. The deviations of the Swiss sanctions must not be exploited to circumvent the EU sanctions, for example by transferring targeted goods to or through Switzerland to benefit from the longer grace periods. Thus, enhanced due diligence and a keen understanding of the Swiss and EU sanctions are key for conducting such transactions.

### 3 PROHIBITION CONCERNING TRUSTS

The recently adopted restrictions on the provision of trust and corporate services to Russian nationals is of particular practical relevance given Switzerland’s position in the international trust industry. Specifically, Article 28d of the Swiss Ordinance prohibits the establishment of a trust (or a similar legal form), the provision of a registered office, business, administrative address or services for trusts if the following applies to its settlors and/or beneficiaries:



As of 28 April 2022, it is therefore prohibited to establish new trust structures in Switzerland involving Russian nationals or residents (subject to certain exceptions detailed below) or legal persons and entities established in Russia.

Furthermore, it is prohibited to act or permit any other person to act as a trustee, nominal shareholder, manager, secretary, or in any similar capacity for a trust or similar legal entity where the settlors or beneficiaries belong to one of the above-mentioned categories. Essentially, this restricts any activities related to Swiss trusts and presumably their underlying companies where a Russian settlor or beneficiary is involved. While the EU prohibition applies as of 10 May 2022,<sup>1</sup> all trust relationships targeted by the Swiss prohibition must be terminated by 29 May 2022.<sup>2</sup>

However, the prohibition does not apply where the Russian settlors or beneficiaries hold dual citizenship or a temporary or permanent residency permit in Switzerland or a member state of the European Economic Area (“EEA”). This exception raises numerous questions for trusts that have both Russian nationals and dual nationals and residents as its settlor or beneficiaries. Additional exceptions apply for certain humanitarian and civil society activities.

Trustees and persons acting in similar capacity are therefore advised to verify the residency and citizenship status of settlors and beneficiaries for any direct or indirect links to Russian individuals or entities under enhanced due diligence. Should the prohibition apply, the trustees must take the necessary measures to terminate prohibited trust relationships or exclude the relevant parties not covered by the exception by 29 May 2022.

That said, trustees must carefully consider the practical implications of terminating or revoking trust structures, retiring or appointing successors trustees or excluding affected Russian beneficiaries. Such actions must not result in assisting in the circumvention of applicable sanctions, for instance by transferring the assets to Russian nationals or citizens who may later become subject to sanctions.

---

<sup>1</sup> Article 5m (2) Council Regulation (EU) 833/2014.

<sup>2</sup> Article 35 para. 15 Swiss Ordinance on measures in connection with the situation in Ukraine.

Finally, even if the trustee decides to terminate or transfer trusteeship, it may not be possible to complete all necessary steps by 29 May 2022. In such cases, trustees should carefully document their actions taken in accordance with their fiduciary duties in the interim and efforts to effectuate the transfer or termination. For Switzerland, the trustee may also wish to contact the State Secretariat for Economic Affairs (SECO) to appraise them of the situation in advance.

#### **4 CONCLUSION**

In light of Switzerland's trust industry that includes Russian clients and the country's role as a hub for international trade, these new sanctions will have significant implications for businesses. Given the broad reaching effects and remaining uncertainty in these areas, it is important to stay current on the latest measures as well as any guidance issued by the Swiss government in this regard.

LALIVE will continue to monitor these changing sanctions and their effects as the situation develops.

For further information to the key measures already imposed by the EU, Switzerland and the UK, see our previous infographic [here](#) and our previous update [here](#).

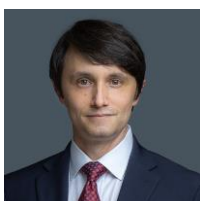
**For further questions or comments about this topic, please contact the authors:**



Daniel L. Bühr  
Partner  
dbuhr@lalive.law



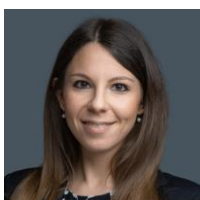
Michael Neumann  
Associate  
mneumann@lalive.law



Jonathon E. Boroski  
Associate  
jboroski@lalive.law



Vivian Bertoluzzi  
Legal Project Manager  
vbertoluzzi@lalive.law



Vivien Altwegg  
Trainee  
valtwegg@lalive.law