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New EU Sanctions Against Russia Impact European Biofuels Companies

Legal Update

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The Council of the European Union has recently enacted regulations which require the Member States of the European Union to impose sanctions against Russian individuals and companies in response to Russia's military action in Ukraine. These new sanctions may have adverse consequences for European biofuels companies that wish to transact business in Russia. This article will describe these sanctions and will explain how European biofuels companies can determine whether these sanctions affect their business dealings in Russia or with Russian counterparties.

Blocked Persons

On March 5, 2014, and March 17, 2014, the Council of the European Union enacted regulations in response to Russia's actions relating to Ukraine. In each of the regulations, the Council ordered the Member States of the European Union to block all funds and property located in the Member States which were owned by certain Russian individuals and entities listed in the regulations. This means that no such funds or property may be made available for transfer, export, withdrawal or otherwise by the listed Russian individuals and entities. The funds and property are frozen from use by such individuals and entities. The individuals and entities that appear on these lists have been identified by the Council as being responsible for the misappropriation of Ukrainian State funds or responsible for human rights violations in Ukraine.

Blocked Activities

On July 31, 2014, and September 8, 2014, the Council of the European Union passed additional regulations in response to the continued aggression by Russia in Ukraine. These regulations forbade any Member State of the European Union to allow any of its citizens or corporations from engaging in any of the following activities:

- All individuals and corporations in the European Union were forbidden from selling, manufacturing, supplying, maintaining, servicing, transferring or exporting, directly or indirectly, any goods or technology to any person or entity in Russia or

for use in Russia, if such goods or technology could be used or intended for use in the Russian military.

- All individuals and corporations in the European Union were forbidden, without prior authorization, from selling, supplying, transferring or exporting, directly or indirectly, any technology or equipment to any person or entity in Russia (or providing any services with regard to any of the foregoing), if such technology or equipment was intended for use in Russia's deep water oil exploration, Arctic oil exploration or shale oil projects.
- All individuals and corporations in the European Union were forbidden to provide, directly or indirectly, any technical assistance, brokering services or financial assistance (which included grants, loans, export credit insurance and guarantees) relating to any goods or technology, if such goods or technology were or could be intended for use in the Russian military.
- All individuals and corporations in the European Union were forbidden to purchase, sell, broker or otherwise deal in securities or other monetary instruments that had a maturity date exceeding 30 days or provide any investment services with regard to such securities or other monetary instruments, if the securities or other monetary instruments were issued by certain Russian entities, corporations or banks listed in the regulations.

Application of the Sanctions to European Biofuels Companies

Given the risk to European biofuels companies of violating these new EU sanctions, biofuels companies should undertake the following due diligence prior to consummating a transaction in Russia or with Russian individuals or entities:

- Ensure that none of the technology or equipment that the European biofuels company sells to a purchaser in Russia could be put to military use.
- Obtain the name (and if an individual, the date and place of birth) of each Russian purchaser of any technology or equipment that will be sold by the European biofuels company. Check the names (and if individuals, the dates and places of birth) of the Russian purchasers against the Russian individuals and entities listed in the regulations enacted by the Council of the European Union.
- If none of the technology and equipment sold by the European biofuels company can be put to military use, and none of the Russian purchasers appears on any of the lists, the European biofuels company may proceed with the transaction without concern.
- If, however, the technology or equipment sold by the European biofuels company can be put to military use, or one or more of the Russian purchasers appears on the lists, then the European biofuels company must analyze the risk in proceeding with the transaction in Russia.

The new EU sanctions imposed against certain Russian individuals and companies can make doing business in Russia a risky proposition. But by following the guidelines described above, European biofuels companies can minimize the risk that

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conducting business operations in Russia will put them in violation of EU law.