

# 18th sanctions package: EU replaces SWIFT exclusion with comprehensive transaction ban on listed banks



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With its 18th sanctions package, the European Union is tightening its financial measures against Russia and Belarus. The former SWIFT exclusion is being replaced by a comprehensive transaction ban that prohibits not only technical communication but also any economic interaction with listed financial institutions. The measure marks a qualitative step in the EU sanctions regime and aims to effectively prevent remaining circumvention.

Article 5h(1) of Regulation (EU) No. 833/2014, as amended, and Article 1zb(1a) of Regulation (EU) No. 765/2006, as amended, prohibit all transactions, whether direct or indirect, with legal entities, organizations, or entities listed in Annex XIV (Russia) or Annex XV (Belarus). The same applies to companies based in Russia or Belarus that are more than 50% owned by a listed entity. Annex XIV was expanded as part of the new regulations and now includes 45 financial institutions.

Only transactions for diplomatic or consular purposes and for EU nationals who were already established in Russia or Belarus before 24 February 2022, remain permissible. In addition, transactions may be authorized on an individual basis if they are strictly necessary for divestment from Russia/Belarus or wind-down of business activities in Russia/Belarus (Art. 5h(1b) of Regulation (EU) No. 833/2014, as amended, Art. 1zb(1b) of Regulation (EU) No. 765/2006, as amended).

## **1. From communication exclusion to comprehensive prohibition: Background to the tightening of the SWIFT exclusion**

The previous exclusion of Russian and Belarusian banks from the SWIFT system was based on a sectoral ban on providing specialized messaging services for payment transactions. The legal addressee was the Belgium-based Society for Worldwide Interbank Financial Telecommunication (SWIFT) SCRL. Pursuant to Art. 5h(1) of Regulation (EU) No. 833/2014 (former version) and Article 1zb of Regulation (EU) No. 765/2006 (former version), it was prohibited to grant access to such services to certain entities listed in Annex XIV and Annex XV.

SWIFT is a highly standardized global messaging system used by banks to send and receive structured payment messages. Its technical function is limited to the exchange of payment information; the actual settlement is carried out via separate payment and settlement systems.

With their exclusion from the SWIFT system, the affected institutions lost the ability to access the globally established messaging infrastructure for payment processing. Although this exclusion had significant practical implications, it was still technically possible to transmit payment information

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outside the SWIFT standard, for example by manual transmission (e.g., by email, fax, or telephone) or by using alternative messaging systems such as the Russian SPFS (Система передачи финансовых сообщений) or the Chinese CIPS (Cross-Border Interbank Payment System) or by using non-sanctioned intermediary banks, in particular via third countries.

The SWIFT exclusion thus primarily acted as a technical infrastructure ban, prohibiting access to a central communication channel for payment transactions without, however, prohibiting the transaction as such.

## **2. Transaction ban: Legal exclusion of economic interaction**

With the transition from a SWIFT-based communication ban to a substantive transaction ban, the European Union is pursuing the goal of excluding all financial relations with certain Russian and Belarusian financial institutions.

The new measures have a much broader impact than the previous SWIFT exclusion. The transaction ban not only affects access to certain messaging systems, but also prohibits any form of economic transaction with the listed entities, regardless of the communication channel used. Alternative channels are also covered if they establish an economic link with a listed financial actor. The ban also extends to all phases of the transaction, i.e., both the transaction creating an obligation (e.g., conclusion of a credit, payment, or security transaction) and the transaction transferring ownership (e.g., execution of a payment, provision of funds, fulfillment of existing contracts). Finally, indirect transactions – for example, via intermediary banks, correspondent relationships, or third-party arrangements – are also covered by the prohibition if they result in an economic benefit for the listed entity.

## **3. Impact on Russian subsidiaries**

The transaction ban pursuant to Art. 5h of Regulation (EU) No. 833/2014 does not apply directly to Russian subsidiaries of EU companies. Nevertheless, transactions should also be reviewed against Art. 8a of Regulation (EU) No. 833/2014. The mere legal permissibility of a transaction by a third-country entity does not release the parent company from its obligation to actively and effectively prevent any circumvention.

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The Council expressly clarifies in recital 18 of Decision (CFSP) 2025/1495 and in recital 17 of Regulation (EU) 2025/1494 that the transaction ban does not have extraterritorial effect:

*"The restrictive measures of the Union shall not have extraterritorial effect and shall not be binding on economic operators established under the law of third countries, including Russia [...]"*.

With regard to subsidiaries of European companies in third countries, it is further stated that:

*"Transactions between legal persons, organizations, or entities established or incorporated under the law of a Member State and their subsidiaries in third countries [...] shall not be considered a violation of this prohibition, including in cases where credit or financial institutions subject to the transaction ban are involved in these transactions."*

Consequently, the prohibition in Article 5h of Regulation (EU) No. 833/2014 does not automatically extend to legally independent third-country subsidiaries of European parent companies. If such a subsidiary independently carries out a transaction with an entity listed in Annex XIV, this does not constitute a violation of the transaction ban – even if the same action would be prohibited within the European Union or by a company based in the European Union. This follows – regardless of recital 17 – from Article 13 of Regulation 833/2014.

However, this applies

*"without prejudice to Article 8a of Regulation (EU) No. 833/2014."*

This means that even if a transaction by a third-country subsidiary does not formally fall under Article 5h of Regulation (EU) No. 833/2014, it may still be subject to sanctions. A violation of Article 8a of Regulation (EU) No. 833/2014 is particularly likely if the EU parent company fails to take appropriate and reasonable measures to influence the subsidiary. However, the measures undertaken by the EU parent company must not lead to an absolute success in form of a guarantee of non-violation by the subsidiary.

For affected companies, the new transaction ban means a significantly increased compliance burden: All relationships with Russian or Belarusian banks must be reviewed in light of the new Annexes (XIV/XV). Existing contracts with listed entities may no longer be fulfilled, and new ones may no longer be concluded. Indirect connections via correspondent banks or payment service providers also require careful review, taking into account the prohibition of circumvention under Art. 12 of Regulation (EU) No. 833/2014.

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