Sanctions against Russia on luxury goods

31.03.2022

Key takeaways

- **As of 25 March 2022, 11:00 p.m., the sale, delivery, export, transport and transit of luxury goods to any natural or legal person, entity or body in Russia or for use in Russia is prohibited.**
- **The list of items falling under the ban is vast and all-encompassing. Any item with a value of more than CHF 300 qualifies as a luxury good.**
- **The ban affects any retailer, wholesaler, manufacturer, distributor etc. selling high-end products.**

Introduction

On 15 March 2022, the EU decided to introduce a fourth package of sanctions against Russia which includes more extensive measures in relation to goods. In particular, it brings about a ban on the export of luxury goods, restrictions on transactions with certain state-owned enterprises and a ban on providing rating services to Russian clients or entities (Council Regulation (EU) 2022/428 of 15 March 2022).

On 18 March 2022, the Swiss Federal Council took the decision to also adopt these EU sanctions. The corresponding measures on luxury goods were introduced by Article 14b of the Swiss Ordinance on Measures in Connection with the Situation in Ukraine (Ordinance) and came into force at 11:00 p.m on 25 March 2022.

Prohibited action

Article 14b para. 1 of the Ordinance prohibits the sale, delivery, export, transport and transit of luxury goods to any natural or legal person, entity or body in Russia or for use in Russia.

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Definition of “luxury goods”

Schedule 18 of the Ordinance contains a long list of items qualifying as luxury goods. The list includes practically all categories of goods that are not essential. Any item listed and having a value of more than CHF 300 falls under the ban.

The following goods are considered as luxury goods: Horses (purebred breeding animals), caviar and truffles, wines (including sparkling wines), beers, spirits and other beverages containing alcohol, cigars and cigarillos, perfumes, eau de toilette and cosmetic products, leather, saddlery and travel articles, handbags and similar articles, coats or other clothing, clothing accessories and footwear, carpets, runners and tapestries, pearls, precious stones and gemstones, articles made of pearls, jewellery, goldsmith’s and silversmith’s wares, coins and banknotes (except for legal tender), precious metal cutlery, porcelain tableware, lead crystal articles, electronic articles for domestic use worth more than CHF 750, electrical/electronic or optical recording and reproducing equipment with a value of more than CHF 1,000, vehicles, with the exception of ambulances, for the transport of persons by land, air or sea with a value of more than CHF 50,000 each or motorbikes valued at more than CHF 5,000 per item, clocks and watches, musical instruments worth more than CHF 1,500, works of art, collectors’ items and antiques, articles and equipment for recreational sports, including skiing, golf, diving and water sports, articles and equipment for billiard games, automatic bowling alleys, games of chance and games operated by coins or banknotes.

Definition of “person, entity or body in Russia”

A person, entity or body in Russia is any person who has his/her/its domicile or place of residence in Russia. Russian citizenship is not relevant for the application of this new sanctions regime. Consequently, business with Russian citizens or persons with dual nationality or dual residency in and outside Russia is permitted as long as the goods are not intended for sale, delivery, export, transport or transit to Russia.

Definition of “for use in Russia”

The phrase “for use in Russia” includes all activities indirectly contributing to the delivery of luxury goods to Russia. Thus, sale to retailers or distributors appointed for the Russian market is prohibited. Furthermore, sale to a person intending to transfer luxury goods to Russia (by means of sending as a gift, carrying along while travelling, etc.) is prohibited.

On the other hand, sale to a retailer or person is permitted if it is not known that the luxury goods are intended for delivery, transfer or export to Russia.

Exception for official purposes of diplomatic consular missions

Article 14b para. 2 of the Ordinance grants an exception with respect to goods which are necessary for the official purposes of diplomatic or consular missions of Switzerland or its partners in Russia or of international organisations enjoying immunities in accordance with international law, or to the personal effects of their staff.

Penal provisions

A violation of Article 14b is punishable by imprisonment of up to one year or a fine of up to CHF 500,000 in the case of intent. If the offence is committed negligently, the penalty is imprisonment for up to three months or a fine of up to CHF 100,000.

Next steps

Affected companies should conduct a sanctions screening including scrutinizing supply chains. They should update their compliance policies and procedures in order to ensure that all staff and third-party distributors are aware of the prohibitions.

Although Swiss law does not explicitly require an economic operator to collect information on the citizenship or residence of its clients, we recommend obtaining and documenting information on the client's place of residence or intended use of goods in the following scenarios:

- Use of Russian language
- Payment with Russian bank or credit cards
- Presentation of Russian passports, Russian residence permit or flight tickets to or from Russia
- Mention of delivery or transfer to Russia
- Knowledge of physical presence of customer in Russia

Pestalozzi has set up a team to address the wide range of legal issues companies are facing with regard to sanctions. Visit our Sanctions Resource Center to receive fast, practical and effective advice.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this Legal Update.

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