

14.06.2022

NEWS DIGEST

Dear colleagues,

to help keep an overview of what is important for doing business in the vast flow of information, we have summarised the news and practical advice essential for foreign businesses in Russia on payments, deliveries of goods and other aspects to pay attention to.

More detailed and up-to-date information is regularly posted on swilar's Telegram channel t.me/swilar.

The information is posted in Russian, but with the translation function in Telegram you have access to the most up-to-date news in the language of your choice.

DELIVERIES

List of goods restricted for export

As a reminder, with the imposition of sanctions, a large number of goods have become restricted both for export from the EU territory and for export from the territory of the Russian Federation.

To view the current list of EU restrictions on the export of goods, please click [here](#). To check whether your goods are subject to restrictions, you can contact your Chamber of Commerce and/or the responsible approval authority (BAFA, SECO or other, depending on the country of residence of the sender).

The Russian Federation has also imposed export restrictions on a number of goods in recent months. The latest [Resolution of the Government of the Russian Federation No. 850 of 11 May 2022](#) (published on 12.05.2022) clarifies the list of goods restricted for export from the Russian Federation. Some of the previous restrictions have been lifted, and the customs codes (TN VED codes) of the EAEU for commodity items from Resolutions No. [311](#), [312](#), [313](#) have also been clarified.

To find out whether your goods can be exported from the territory of the Russian Federation under this regulation, you need to check whether your TN VED code is in the list of customs codes in the regulation.

Licences, certificates and permits for importing goods into the Russian Federation

[Government Resolution No. 353 of 12.03.2022](#) extends the validity of a number of permits and licences and simplifies the conditions for importing and certifying products in the Russian Federation:

- It postpones the need to undergo periodic conformity assessment for products for a year in many industries;
- It also makes it possible to use documents from foreign certification bodies or foreign laboratories as proof that products are safe.

To find out whether you can benefit from this measure, you should check whether your licences and certificates are included in the list of permits renewable under the Resolution.

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Please note that the Resolution applies only in the Russian Federation and not in other EAEU Member States.

Permission of parallel imports

On 19.04.2022 the Ministry of Industry and Trade signed [Order No. 1532](#) approving the list of goods for which the protection of the exclusive rights to the results of intellectual activity expressed in such goods and the means of individualization with which such goods are marked will not be applied (the Order entered into force on 07.05.2022). A list of goods provided for inclusion in the list of parallel import authorisations can be found [here](#).

The list contains both customs codes and names of specific brands/trademarks. The ministry suggested that more than 50 groups of goods should be sold without the permission of the rights holder. In total, the document contains about 200 items.

According to further [comments](#) from the Ministry of Industry and Trade it is understood that the list may be updated: foreign brands that continue to operate on the Russian market may be excluded from the list.

INTERNATIONAL PAYMENTS

In the list of frequently updated restrictions, it is not easy to pick out important details. For your convenience, we have compiled an overview of the experience we have gathered with regard to the payment situation.

As a reminder, [7 Russian banks](#) have been cut off from SWIFT. The latest (6th) sanctions package also includes new restrictions on the banking sector. The list of banks to be excluded from SWIFT was extended by 3 Russian banks: Sberbank, Rosselkhozbank and Moscow Credit Bank, which will be cut off on 14.06.2022.

On the side of the EU

Other than this, there are no current EU restrictions on payments to counterparties in the Russian Federation. However, the majority of payments are processed manually by banks in Europe and/or include additional compliance checks to avoid money transactions involving sub-sanctioned individuals or entities. The sender/receiver of a payment from the Russian Federation may therefore need to provide additional explanations, disclose more detailed information and the processing of the payment may be delayed.

On the side of the Russian Federation

The Russian Federation has introduced a number of restrictions that need to be taken into account when planning payments.

In particular, there are restrictions on (the list is incomplete and is based on the most frequent questions from companies):

- the refunding of loans and interest to foreign legal entities from unfriendly countries (carried out in rubles, for amounts exceeding 10 million rubles per month [a special type C account](#) must be opened and authorised by a special [Government commission](#)).
- purchase of currency by foreign residents in the Russian Federation and transfer of foreign residents' own funds abroad (representative offices and branches are restricted from transferring funds to the head office).
- Payment of dividends from both AOs and OOs. According to [Presidential Decree No. 254 of 04.05.2022](#), dividends are subject to the same regulation as loans (see above).

- Payment of royalties and remuneration for the use of intellectual property/individualisation tools. [Presidential Decree No. 322 of 27.05.2022](#) provides that in relation to this type of payments to foreign right holders who meet certain criteria (e.g. who have ceased business in Russia) payments will have to be made in rubles using a special type O account.

It should be taken into account that the restrictions, however, do not apply to payments for goods under supply contracts. With regard to foreign currency payments, significant relaxations have been introduced in the currency control regulations of Russian banks.

For payments for services, there is a limit on prepayments (not more than 30% of the total amount to be paid). However, the limit does not apply to a certain [list of services](#) or to contracts of less than USD 15,000 (or its equivalent in another currency).

The regulation on compulsory sale of foreign currency earnings introduced in February (initially 80% of incoming funds were to be sold within 3 days of crediting; later the regulation was gradually relaxed to 50% within 120 days) was officially abolished starting from 10.06.2022. The decision was taken by a sub-committee of the governmental commission for the control of foreign investments in Russia, which was authorised to do so by a [Presidential Decree](#) of 09.06.2022.

FORCE MAJEURE

At the moment there is no clear understanding as to whether the current restrictions on both parties constitute force majeure.

That said, under the general procedure in Russia, the parties concerned (the party to the contract who has not fulfilled/unduly fulfilled the obligation) are entitled to apply to the Chamber of Commerce and Industry of the Russian Federation (or the subject of the Russian Federation) to obtain an opinion on force majeure circumstances occurring in the territory of the Russian Federation.

In this case the decision on the acceptance/non-acceptance of the received opinion will be made by the counterparty independently. If the counterparty disagrees, the dispute will be resolved in court, with the CCI opinion being one of the pieces of evidence of the party's inability to meet/properly meet its obligations.

Information on how to apply, deadlines and fees, as well as all contact details are available on the [official website](#) of the Chamber of Commerce and Industry of the Russian Federation.

If the foreign supplier company can produce a force majeure certificate from its authorised body, the Russian buyer will not need to apply to the CCI of the Russian Federation separately. A foreign certificate of force majeure can also be presented in the Russian Federation.

OTHER

Moratorium on bankruptcy

From 1 April to 1 October 2022 there is a [moratorium on initiating bankruptcy proceedings](#) at the request of creditors in Russia. The moratorium applies to all companies as well as sole proprietors with the exception of property developer debtors.

Companies covered by the moratorium are prohibited from:

- paying out dividends,
- paying out the actual value of shares,
- repurchasing own shares,
- terminating monetary obligations by setting off a counter claim of the same kind (if this violates or is likely to violate the order of priority for the satisfaction of creditors' claims).

These restrictions can be avoided by submitting a simple waiver of the moratorium by the company through a personal account on the [Fedresource](#) website.

Business support measures in the Russian Federation

The Russian Federation has introduced a number of both tax and non-tax related support measures for businesses.

The measures include:

- deferral of the payment of insurance premiums;
- special treatment of exchange rate differences for the period 2022-2024;
- accelerated VAT refund procedure;
- and others.

[A summary overview of support measures](#) in Russian can be found on the Russian Government website. More information is also available on our website.

Transactions with shares in Russian companies

In a number of cases, transactions with shares (sale, withdrawal of a participant, call option) may require authorisation from a special Government Commission.

However, this rule does not apply to all transactions: a number of exceptions have been named in the [Presidential Decree](#) of 04.05.2022. There are also differences in the regulations for joint stock companies and limited liability companies.

We are actively working with these issues for our clients and will be happy to provide further information on request.

We make every effort on our part to help keep processes stable for our clients, and we always stay in touch.

Best regards,

your team of swilar

More up-to-date information in our Telegram channel:
[t.me/swilar](#)