



Guidance Note on the interpretation of article 5b of Council Regulation (EU) No 833/2014 of 25 February 2022

Russia Sanctions

22 July 2022

1. Do the restrictions on the SWIFT channel also cover branches and subsidiaries of Russian Banks in the EU? Is the SEPA Channel for these subsidiaries also blocked?

Article 5h of Council Regulation 833/2014 (as amended by Council Regulation (EU) 2022/345 of 1 March 2022) states that “it shall be prohibited as of 12 March 2022 to provide specialised financial messaging services, which are used to exchange financial data, to the legal persons, entities or bodies listed in Annex XIV or to any legal person, entity or body established in Russia whose proprietary rights are directly or indirectly owned for more than 50 % by an entity listed in Annex XIV”.

In view of this, only subsidiaries of the seven credit institutions listed in Annex XIV which are established in Russia are covered by this prohibition. In this sense, Recital 3 of Council Regulation 2022/345 refers to “(...) restrictive measures with regard to the provision of specialised financial messaging services to certain Russian credit institutions and their Russian subsidiaries (...)”.

One may also refer to the press release of SWIFT: <https://www.swift.com/news-events/news/message-swift-community>

2. How should the restriction concerning 100,000 Euros in deposits as per article 5b of Council Regulation 2022/328 be interpreted?

Article 5 b states that it is prohibited to accept any deposits from Russian nationals or natural persons residing in Russia, or legal persons entities or bodies established in Russia, if the total value of deposits of the natural or legal person, entity or body per credit institution exceeds 100,000 Euros.

EU operators need to monitor deposits and gather information per customer and per financial institution from where these funds are generated in order to monitor the cumulative amount not exceeding 100,000 Euros per financial institution. Thus, EU operators must not accept (new) deposits in excess of 100,000 Euros. If a Russian national or natural person residing in Russia had less than 100.000 Euros, it is entitled to increase the balance of the deposit up to 100.000 Euros (but not more) per credit institution.

E.g. a Russian national or natural person residing in Russia, or a legal person or entity or body established in Russia transferring money from Russia to a Maltese bank:

Payment 1 - from Russian Bank A of 99,000 Euros can be accepted.

Payment 2 - another payment from Bank A of 1500 Euros is to be rejected.



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Payment 3 - a payment from Russia Bank B of 99,000 Euros can be accepted.

Payment 4 - another payment from subsidiary of Bank B in Italy of 150,000 Euros is to be rejected.

3. Does the restriction on 100,000 Euros also apply to Russian Nationals with accounts in Banks outside of Russia?

Yes, as long as the deposit belongs to a Russian national or natural person residing in Russia, or to a legal person or entity or body established in Russia, the transaction would need to fall under the 100,000 Euros limitation. Banks need to monitor incoming transactions to accounts held by Russian nationals and natural persons residing in Russia to ensure that the 100,000 Euros limit is not exceeded, irrespective of where the incoming transactions are made from.

4. How does the restriction concerning deposits of 100,000 Euros effect existing deposits in Maltese Banks which belong to Russian nationals or natural persons residing in Russia, or a legal person or entity or body established in Russia?. Is any action necessary on existing balances after 25 February 2022 which are in excess of 100,000 Euros? Can any new deposits be received over and above existing deposits in excess of 100,000 Euros?

With regard to existing deposits belonging to a Russian national or natural person residing in Russia, or a legal person or entity or body established in Russia exceeding 100,000 Euros in a deposit on the day of entry into force of Council Regulation 2022/328 of 25 February 2022, the relevant deposit is grandfathered. This means that the Russian national or natural person residing in Russia, or a legal person or entity or body established in Russia may keep the money and use it as desired (e.g. withdraw it or leave it in the account), but cannot the balance may not be increased in a way that would exceed 100,000 Euros (unless the competent authority in Malta grants an authorisation under Article 5c or 5d);

5. Has the scope of Article 5b of Regulation (EU) No 833/2014 been extended?

Yes. Decision CFSP 2022/1271 expands the scope of the prohibition on accepting deposits to include those from legal persons, entities or bodies established in third countries and majority-owned by Russian nationals or natural persons residing in Russia. Additionally, it subjects the acceptance of deposits for non-prohibited cross-border trade to a prior authorisation by the national competent authorities.