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# De-risking of Russian clients: best intentions, unintended consequences

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## Abstract

After the Russian invasion of Ukraine and the wide-reaching sanctions which ensued, many Western financial institutions began to de-risk Russian clients. Dealing with Russian clients, in many cases, has become expensive from a compliance point of view and toxic from the reputational side.

However, the de-risking of unsanctioned Russian individuals may have a significant impact on the fight against financial crime by potentially causing:

- an increase in the use of shadow/unregulated channels of moving money;
- a withdrawal of funds away from the European zone to sanctioned countries or non-cooperative jurisdictions;
- severe burdens on the investigation of financial crimes (especially in relation to Russian assets and investments) and on international cooperation in criminal matters;
- increased opportunities for enablers, such as unscrupulous lawyers and accountants, to take advantage of the situation.

This Policy Brief outlines the current situation and suggests how to better manage risk without having a negative impact on the fight against financial crime.

## What is de-risking and unwarranted de-risking?

According to the Financial Action Task Force (FATF), de-risking refers to *“the phenomenon of financial institutions terminating or restricting business relationships with clients or categories of clients to avoid, rather than manage, risk in line with the FATF’s risk-based approach”*.<sup>1</sup>

Similarly, the European Banking Association (EBA) describes it as *“Where a financial institution decides to refuse to enter into or to terminate business relations with individual customers or categories of customers associated with higher ML/TF risk or to refuse to carry out higher ML/TF risk transactions”*.<sup>2</sup>

De-risking an entire group of clients from jurisdictions considered high-risk can be seen as the result of an inability to effectively manage risk. In other words, it is a failure of the risk-based approach that the FATF recommends.<sup>3</sup> Such de-risking is often referred to as “unwarranted”.

1 FATF. 2014. ‘FATF clarifies risk-based approach.’ <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Rba-and-de-risking.html>

2 EBA. 2023. ‘Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services.’ [https://www.eba.europa.eu/sites/default/documents/files/document\\_library/Publications/Guidelines/2023/1054144/Guidelines%20on%20MLTF%20risk%20management%20and%20access%20to%20financial%20services.pdf](https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2023/1054144/Guidelines%20on%20MLTF%20risk%20management%20and%20access%20to%20financial%20services.pdf)

3 FATF. 2014. ‘Risk-based approach for the banking sector.’ <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Risk-based-approach-banking-sector.html>

Based on the FATF's guidance on applying a risk-based approach,<sup>4</sup> the decision to terminate customer relations should be made on a case-by-case basis, when money laundering and terrorist financing risks cannot be mitigated. EU legislation calls for a similarly nuanced approach to de-risking.<sup>5</sup>

### What are the drivers of de-risking?

A financial institution may decide to de-risk because of:

- concerns about profitability;
- fear of reputational risk;
- a lower risk appetite;
- high regulatory burdens or a lack of clarity on expectations;
- an inadequate or opaque regulatory framework;
- complicated sanctions regimes.<sup>6</sup>

The primary factor behind choosing to de-risk is profitability. The high cost of implementing anti-money laundering and counter financing of terrorism (AML/CFT) compliance measures and systems and a lack of available resources are a barrier to evaluating risk on a more nuanced and individual level. The perceived potential for AML/CFT failures to result in large fines is also a concern for financial institutions.

When reputational and money laundering risks exceed a financial institution's risk appetite and expected compliance costs exceed profits, de-risking appears to be a rational decision.

### Sanctions against Russia and de-risking of unsanctioned Russian clients

De-risking often occurs for groups of clients that are seen to pose potential high money laundering or terrorist financing threats such as:

- money services business;
- non-profit organisations;
- asylum seekers;
- embassies and international missions;
- FinTech companies;
- precious stone dealers.

Since the full-scale invasion of Ukraine, however, sanctions have become a much more significant driver for de-risking. Many of the compliance challenges with Russian sanction programmes are not new. But the war-related Western sanctions against Russia are extraordinary in scale and complexity. Russia is also more intertwined in Western financial markets than other markets with long-running sanction regimes such as North Korea and Iran.

Facing these unprecedented challenges in applying measures against Russia, financial institutions face the choice of paying increasing compliance costs or de-risking Russian clients en masse.

A lack of consolidated guidelines is making the situation worse. New guidance documents are numerous but do not always align.<sup>7</sup> It is not surprising that many financial institutions cannot afford compliance programmes sophisticated enough to handle this, or adequate staff to implement them.

For many, de-risking of all Russian clients (often including customers with links to Russia or Belarus who are legally resident in the EU) is seen as the practical solution.

4 FATF. 2014. 'FATF clarifies risk-based approach.' <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Rba-and-de-risking.html>

5 Article 14 (4) of Directive (EU) 2015/849 (AMLD), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849>

6 US Department of Treasury. 2023. 'De-Risking Strategy.' [https://home.treasury.gov/system/files/136/Treasury\\_AMLA\\_23\\_508.pdf](https://home.treasury.gov/system/files/136/Treasury_AMLA_23_508.pdf)

7 Thomson Reuters. 2022. 'The fog of sanctions: Global banks and businesses face unprecedented challenges in applying measures against Russia.' <https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2022/07/Russia-Sanctions-White-Paper-2022.pdf>

## Any real examples?

Shortly after the Russian invasion of Ukraine, Swiss media began to report on how different banks were evaluating the risk of Russian clients. It was reported that a number of banks were now suspicious of any Russian client and that this was encouraging some customers to “convert their assets into gold and move them to Dubai”.<sup>8</sup>

In April 2022, there were stories that UBS, Migros Bank and PostFinance “falsely” closed accounts belonging to non-sanctioned individuals and companies.<sup>9</sup> This reported “false closure” of non-sanctioned individuals’ accounts looks in many cases to be a chosen de-risking strategy rather than a mistake.

On the other hand, some banks were reported to be demonstrating a more nuanced approach to risk assessment, with clients possessing a residence permit or citizenship in the EU, European Economic Area or Switzerland remaining unaffected.

Though it is not possible to know the basis for banks’ decisions, several indicators appear linked to the blocking of accounts of Russians in Switzerland, including:

- payment of taxes in Russia;
- business in Russia;
- dual Swiss-Russian citizenship;
- being on the international sanctions list.

It also appears that a financial institution’s ability to allocate sufficient resources to increased AML/CFT compliance measures is a major determinant of the policy, together with the institution’s risk appetite.

## The role of international / national authorities

In its *FAQs on Russia’s war against Ukraine and ECB Banking Supervision*, published in April 2022, the European Central Bank (ECB) explains that its role is only to monitor the impact that sanctions can have on banks and not to impose or monitor compliance with sanctions by financial institutions.<sup>10</sup> It also states that individual member countries and national authorities are responsible for identifying breaches of sanctions applicable in the EU and imposing penalties if necessary.

Indeed, national banking regulators, supervisors and law enforcement play a crucial role in guiding, supervising and sanctioning breaches. However, varying national laws and guidelines can create uncertainty and irregularities which encourage banks to avoid risks entirely.

Thus, much depends on the quality of supervision and cooperation between regulators and financial institutions, as well as designated non-financial businesses and professions (DNFBPs). It also depends on having clear and harmonised guidelines and recommendations in place.

As the latest Public Report of the Basel AML Index shows, high-quality supervision of financial institutions and DNFBPs is one of the most complicated challenges to get right.<sup>11</sup>

## Consequences of unwarranted de-risking of Russian clients

The European Banking Authority (EBA) is among the institutions to suggest that de-risking has a detrimental impact, particularly on fighting financial crime

8 SwissInfo. 17 March 2022. ‘Swiss banks count cost of Russia sanctions.’ <https://www.swissinfo.ch/eng/business/swiss-banks-count-cost-of-russia-sanctions/47441746>

9 FInews. 25 April 2022. ‘Swiss Banks Falsely Block Russian Accounts.’ <https://www.fInews.com/news/english-news/51173-swiss-banks-close-wrong-russian-accounts>

10 ECB. 2022. ‘FAQs on Russia’s war against Ukraine and ECB Banking Supervision.’ [https://www.bankingsupervision.europa.eu/press/publications/html/ssm.faq\\_Russia\\_Ukraine\\_war\\_and\\_Banking\\_Supervision~8360ccdf6f.en.html](https://www.bankingsupervision.europa.eu/press/publications/html/ssm.faq_Russia_Ukraine_war_and_Banking_Supervision~8360ccdf6f.en.html)

11 Find the 11th Edition Basel AML Index report at: <https://index.baselgovernance.org/download>

effectively.<sup>12</sup> AML/CFT experts also write about the so-called “paradox of de-risking”, which can in fact increase AML/CFT risks by driving people into the shadow banking system.<sup>13</sup>

The main potential problems related to the de-risking of Russian clients are:

**Increased use of unregulated financial channels.** After Russian clients’ accounts are terminated, they may turn towards alternative, unregulated payment channels to move money. The lack of transparency in these “shadow” financial flows has a detrimental effect on the ability of authorities to monitor and investigate transactions and to detect illicit finance or sanctions evasion.

**Geopolitical impacts with wider consequences for the fight against money laundering.** A loss of access to banking for Russian clients in Western countries may trigger them to move their money to third countries – here meaning jurisdictions not part of the Western sanctions alliance – including those on the FATF grey list of jurisdictions subject to increased monitoring.<sup>14</sup> There is some evidence of this taking place since the full-scale invasion. In March 2022, it was reported that Russian nationals were enquiring how to shift large sums to the United Arab Emirates (UAE).<sup>15</sup> The UAE is on the FATF grey list as well as the EU lists of high-risk third countries and non-cooperative jurisdictions for tax purposes.

Financial crime experts express concern about the risks of such a shift, since a “lack of sanctions compliance means that third countries are not only facilitating the

funding and resourcing of the Russian military but also offering money-laundering opportunities for funds emanating from Russia.”<sup>16</sup>

**Negative impact on international cooperation and investigation of financial crimes.** Closing accounts means that it is no longer possible for a financial institution to monitor or detect red flags in that account or to submit suspicious transaction reports (SARs) on any transactions. This complicates efforts to prevent and investigate both money laundering/terrorist financing offences and sanctions evasion.

**Increased role of enablers.** De-risking results in a greater need to move money between different jurisdictions and hide it in complex corporate structures. That makes the services of lawyers, accountants, tax advisors and similar consultants very useful. The European Parliament’s “lessons learnt from the Pandora Papers” exercise<sup>17</sup> stated that: “PwC, along with other major accountancy firms, had a central role in assisting Russian oligarchs with their investments in the West through their networks of offshore shell companies.”<sup>18</sup> The same resolution also highlights that such networks may be hindering the application of EU sanctions on Russian individuals.

## Recommendations

No single action can be a panacea for the issue of de-risking. A set of complex measures and policies are required, including those of a global nature:

**Risk-based approach.** Financial institutions should aim to manage risks related to Russian clients and assets on a risk-sensitive basis, instead of trying to escaping from

12 EBA. 5 January 2022. ‘EBA alerts on the detrimental impact of unwarranted de-risking and ineffective management of money laundering and terrorist financing risks.’ <https://www.eba.europa.eu/eba-alerts-detrimental-impact-unwarranted-de-risking-and-ineffective-management-money-laundering-and>

13 Kearney, B. 2022. ‘A Paradox: “De-Risking” Can Increase AML/CFT Risks by Driving People into the “Shadow Banking System.” Money Laundering News, <https://www.moneylaunderingnews.com/2022/01/a-paradox-de-risking-can-increase-aml-cft-risks-by-driving-people-into-the-shadow-banking-system>

14 FATF. ‘High-risk and other monitored jurisdictions.’ <https://www.fatf-gafi.org/en/topics/high-risk-and-other-monitored-jurisdictions.html>

15 Saba, Y. 2022. ‘Russia’s rich look to stash wealth in Dubai.’ Reuters, <https://www.reuters.com/markets/europe/fearing-wests-wrath-russias-rich-look-stash-wealth-dubai-2022-03-10/>

16 Keatinge, T. and Saiz, G. 2023. ‘Maximising Awareness of Russia’s Threat to Global Financial System Integrity.’ Royal United Services Institute, <https://www.rusi.org/explore-our-research/publications/conference-reports/maximising-awareness-russias-threat-global-financial-system-integrity>

17 European Parliament resolution of 15 June 2023 on lessons learnt from the Pandora Papers and other revelations, [https://www.europarl.europa.eu/doceo/document/TA-9-2023-0249\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0249_EN.html)

18 Goldstein, M. et al. 9 March 2022. ‘How Western Firms Quietly Enabled Russian Oligarchs.’ The New York Times, <https://www.nytimes.com/2022/03/09/business/russian-oligarchs-money-concord.html>

risks. Supervisory authorities need to support them in this effort, since de-risking a whole group of clients has a knock-on effect on global AML/CFT regimes.

**Supervision.** National laws or regulations must provide useful and above all harmonised clarification and guidance on how higher risks are to be mitigated. In the current context, more clarity and consistency is needed on how to mitigate risks associated with Russian clients.

**Training of sanctions specialists.** Financial institutions often have large AML compliance teams, but a shortage of trained sanctions staff. Investing in specialised training will improve financial institutions' expertise in dealing with the complex issues of implementing sanctions, giving the organisation the confidence to uphold a higher risk tolerance.

**Transparency of beneficial ownership.** Beneficial ownership of legal instruments and arrangements is a familiar weak spot in both sanctions implementation/enforcement and in money laundering/terrorist financing prevention. Access to verified and accurate data on beneficial ownership should be a top priority worldwide. With more transparency, financial institutions may feel less inclined to de-risk entire groups.

**Disabling enablers.** Despite increasing concern about the role of enablers in moving illicit funds of Russian individuals across borders, governments are still often reluctant to address the issue. The Basel AML Index has warned repeatedly that the quality of supervision of DNFBPs and DNFBPs' preventive measures remain weak globally.<sup>19</sup> The European Parliament's above-mentioned resolution highlights the absence of visible investigations into intermediaries (enablers) in the EU following the publication of the Pandora Papers and the EU's Russia-related sanctions. Proper investigations into potential wrongdoing by DNFBPs would help to

penalise those who have taken advantage of their privileged positions and deter others from trying the same.

**Prioritising investigations.** Investigating the assets and investments of Russian oligarchs potentially subject to sanctions needs to be a top priority if the sanctions regime is to have its intended effect. Information from Western financial institutions on Russian clients and assets would be of great help to investigators in this effort, but will be lost with indiscriminate de-risking.

## Keywords

de-risking

anti-money laundering

compliance

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sanctions

enablers

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<sup>19</sup> See for example section 2.4 in the 11th Edition Basel AML Index Public Report, available at: <https://index.baselgovernance.org/download>.