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McKenzie.**

# **Sanctions and export controls**

26 - 28 September 2023

**ANNUAL COMPLIANCE CONFERENCE**

# Annual Compliance Conference 2023

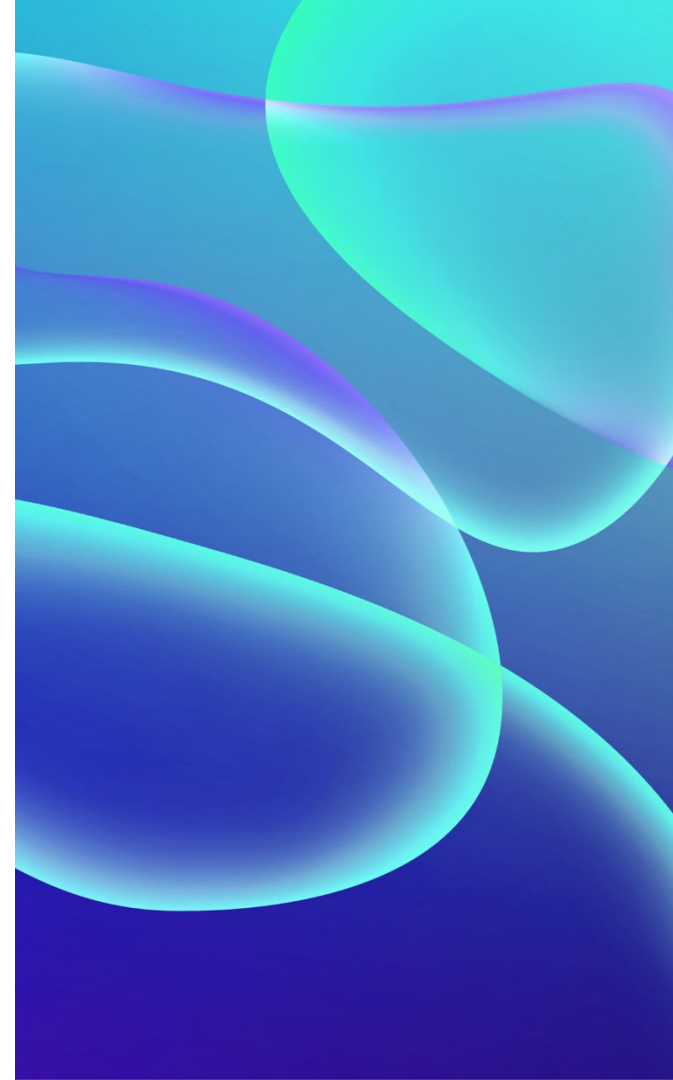
**01** Anti-bribery and corruption and economic crime  
5 - 7 September

**02** Customs and key compliance developments  
12 - 14 September

**03** ESG, supply chain and product compliance  
19 - 21 September

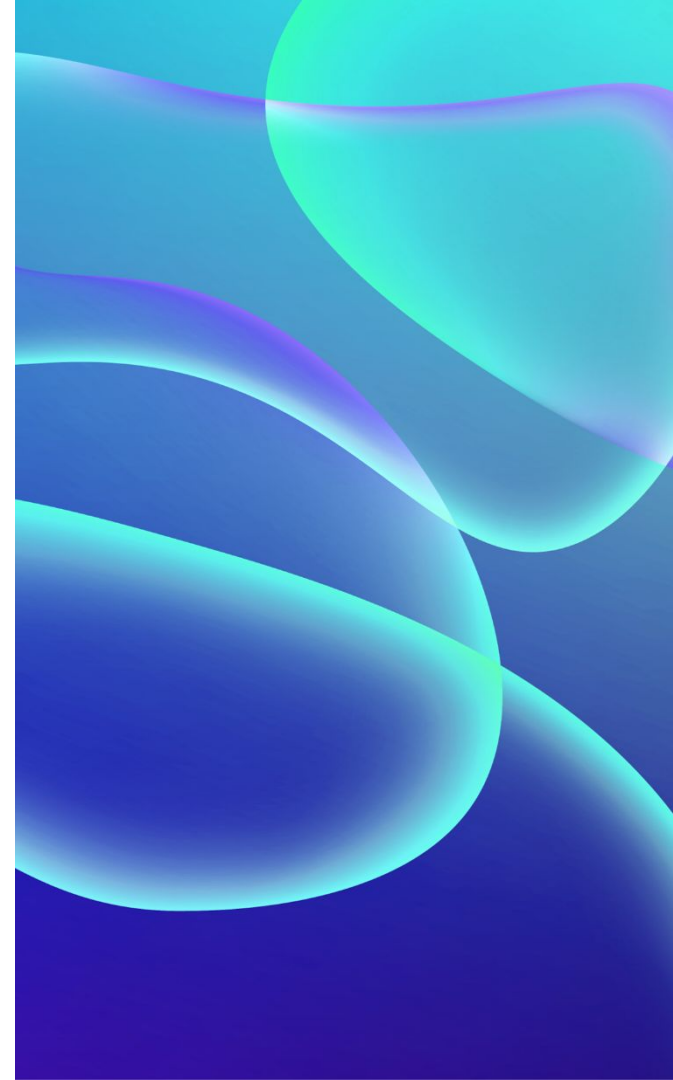
**04** Sanctions and export controls  
26 - 28 September

**05** Antitrust compliance  
3 - 5 October



# This week: Sanctions and export controls

<b>01</b>	Tuesday 26 September 2.30 - 4.00 pm BST 3.30 - 5.00 pm CEST 9.30 - 11.00 am EDT	Sanctions update: focus on Russia
<b>02</b>	Wednesday 27 September 2.00 - 3.15 pm BST 3.00 - 4.15 pm CEST 9.00 - 10.15 am EDT	The great escape: winding down Russian business and managing litigation risks
<b>03</b>	Wednesday 27 September 3.45 - 4.45 pm BST 4.45 - 5.45 pm CEST 10.45 - 11.45 am EDT	Downsize this: mitigating risks and managing costs in global sanctions and export control investigations



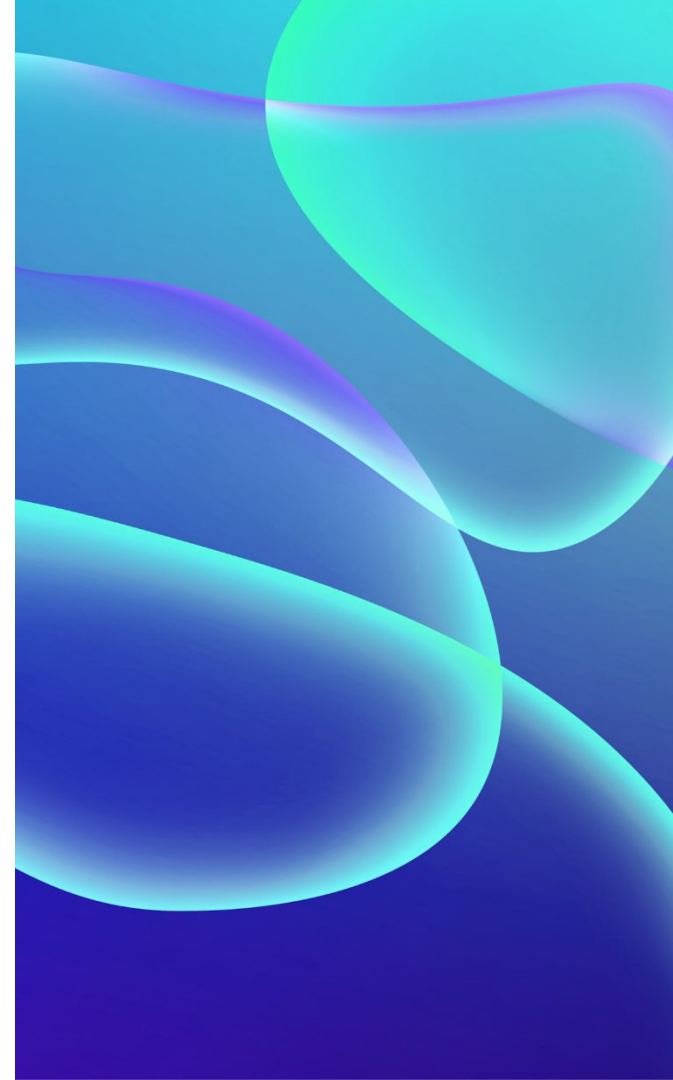
# This week: Sanctions and export controls

**04** Thursday 28 September  
2.00 - 3.00 pm BST  
3.00 - 4.00 pm CEST  
9.00 - 10.00 am EDT

Geopolitical risk readiness: learnings from the Russia sanctions, export control developments and focus on China

**05** Thursday 28 September  
3.45 - 4.45 pm BST  
4.45 - 5.45 pm CEST  
10.45 - 11.45 am EDT

Geopolitical risk in transactions: developments in foreign investment control and national security interventions



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# **Sanctions update: focus on Russia**

Tuesday 26 September, 2.30 - 4.00 pm BST

**ANNUAL COMPLIANCE CONFERENCE**

# Speakers



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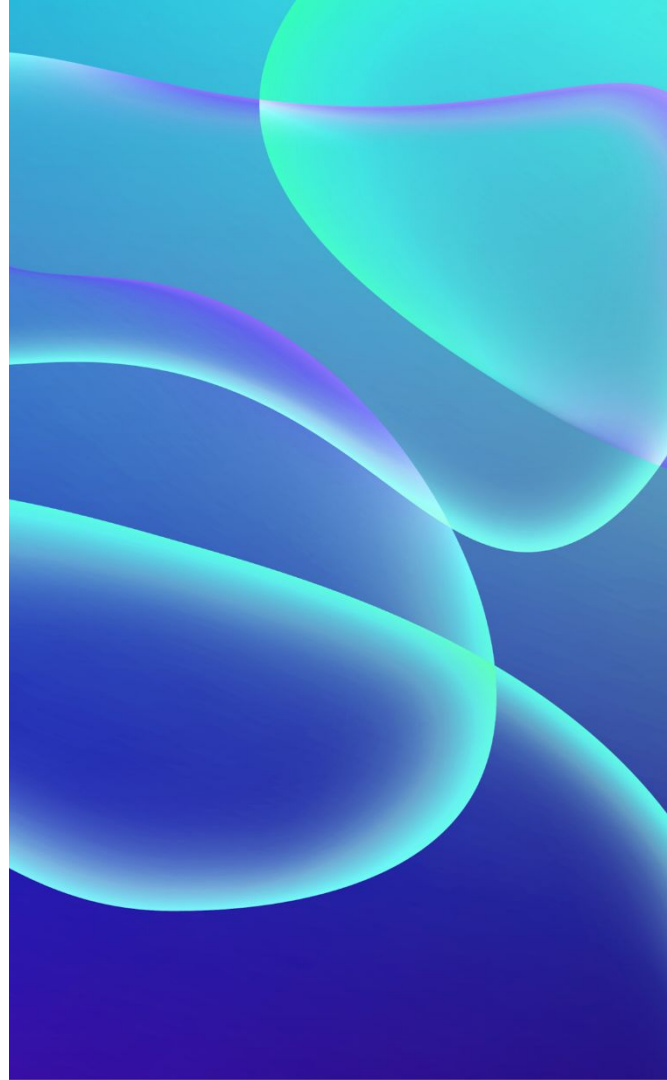
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# EU Sanctions Developments



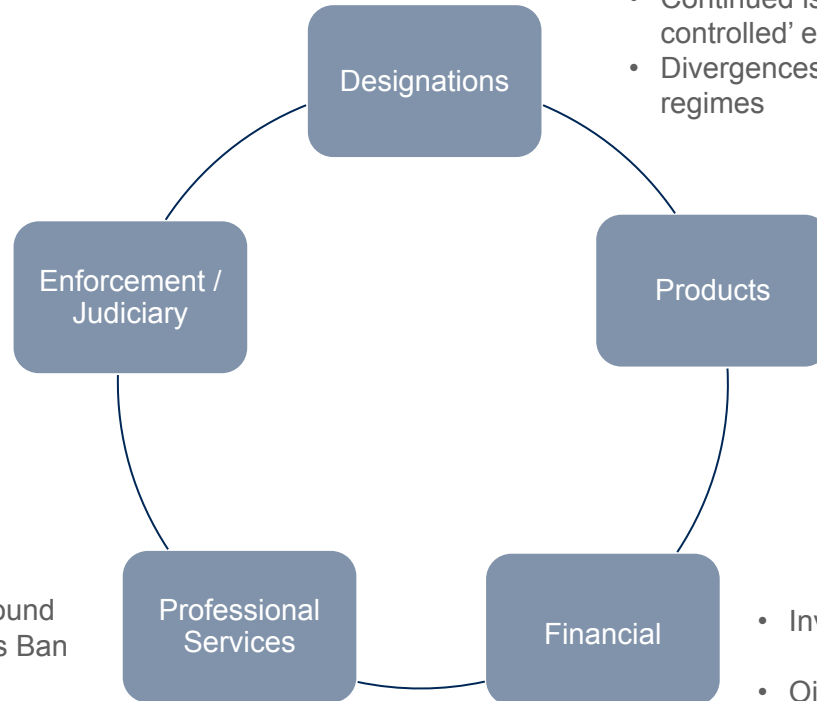
## Key Themes:

- Anti-Circumvention
- Continued focus on product, service and DP restrictions
- Significant increase in enforcement
- Continued lack of harmonization by Member States
- Increased difficulties to agree on new sanctions packages
- 12 Sanctions Package?

# UK Sanctions Developments

- Monetary Penalties Guidance
- Now seeing outcomes of investigations working through, first HMRC fine for Russia sanctions £1 million 22 Aug
- OFSI penalty - WISE
- Increased commercial litigation and judgments on key issues e.g. application of foreign sanctions regimes in UK (*Celestial Aviation*)

- Subsidiary licensing ground
- Legal Advisory Services Ban



- Significant additions to designated persons list
- Continued issues identifying 'owned or controlled' entities – uncertainty.
- Divergences between listed persons across regimes

- Export, supply & delivery, making available prohibitions:
- Import, purchase & transport prohibitions:
- '*Persons connected with Russia*'

- Investment Ban
  - Credit/Loan restrictions
- Oil Price Cap



# US Sanctions Developments

- Increased coordination between US domestic agencies and with international partners on investigations and enforcement, focus on evasion
- Expansion of sanctions prohibitions on a range of services
- New determinations targeting a number of additional sectors of the Russian economy
- Designations continue, though not as fast-paced as 2022
- OFAC specific license required for payment of “exit tax”
- Price caps on Russian crude oil and petroleum products
- Expansion of export controls to include numerous medical products/devices
- Starting to see more enforcement actions, including criminal charges/arrests

# Canadian Sanctions Developments

- Amendments to *Special Economic Measures Act & Justice for Victims of Corrupt Foreign Officials Act*:
  - *Deeming provision employees three thresholds:*
    1. *50% of shares, ownership interests or voting rights*
    2. *change composition or powers of board of directors*
    3. *directly or indirectly, direct entity's activities*
  - *Country-specific sanctions may now apply to former nationals & non-nationals*
- Canada coordinates designations with its allies; however it also applies broader designations
- No guidance yet issued by Global Affairs Canada

# Ukrainian Developments

Ukrainian restrictive measures against Russia

**Personal  
sanctions**

**Sectoral  
sanctions**

**Criminal liability**

**Expropriation of  
property**

**Obligations  
moratorium**

**Ban on payment  
transactions**

**Export/import  
ban**

**Ban on public  
procurement**

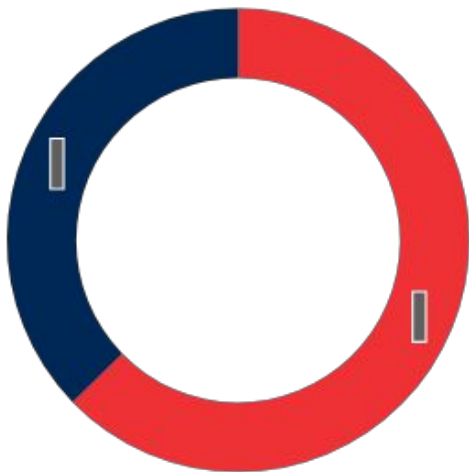
**Marketing  
authorizations  
withdrawal**

# Ukrainian Developments

Sanctions and sanctions recommendations

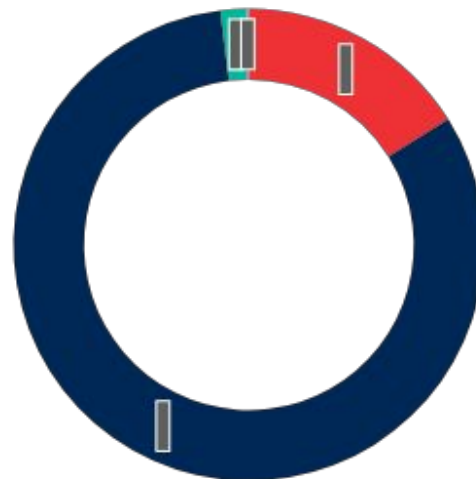
NSDC personal sanctions

 14,760 persons



War and Sanctions Database listings

 20,159 persons



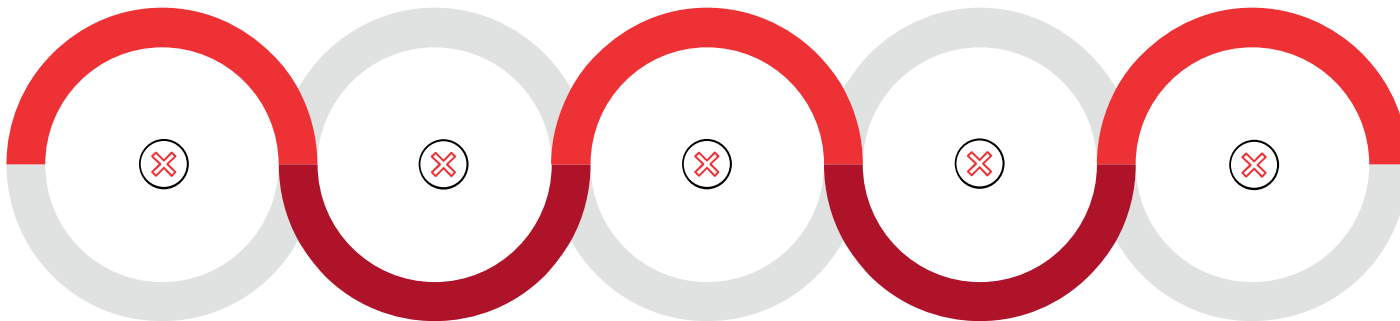
# Ukrainian Developments

Criminal liability risks

Commercial activity in Russia  
or with companies based in  
Russia

Transfer of material  
resources/assets to Russia or  
its representatives

Being involved in the  
decision-making process in  
Russian companies



Paying taxes and duties to  
Russia

Collaboration with Russian  
authorities

# Ukrainian Developments

## Criminal liability risks



Depending on the severity of the crime, qualification and other conditions, individuals and legal entities (quasi-criminal liability) may be held liable:

- **Individuals** — penalty or imprisonment for five to 15 years with prohibition on holding certain positions or engaging in certain activities for a certain period and with confiscation of assets
- **Legal entities** — penalty (in the amount of damage) or compulsory liquidation with confiscation of assets as an additional measure.



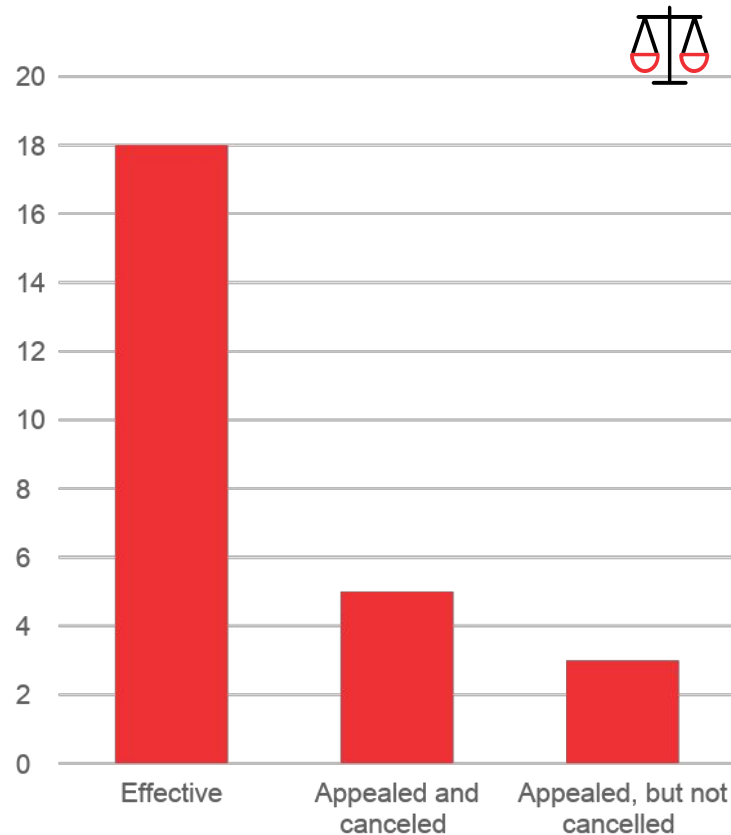
Ukraine allows criminal proceedings against **foreign residents** without their presence if they refuse to attend the hearings. This is a significant risk for the individuals as they may be announced to Interpol search or added to the terrorists list.

# Ukrainian Developments

## Expropriation of property

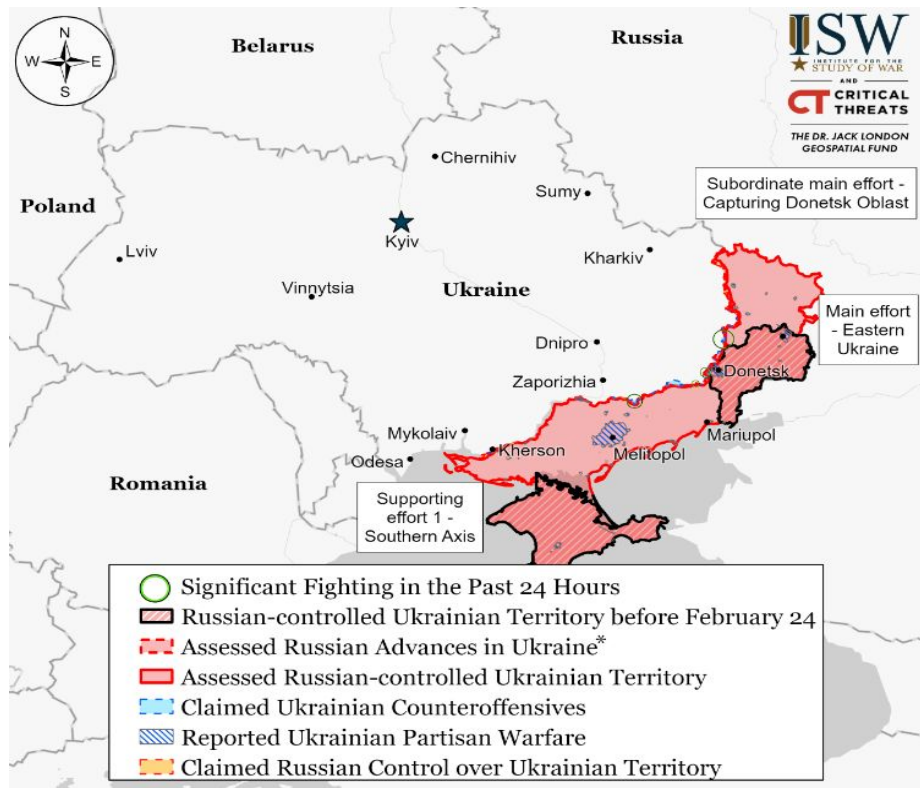
The Ukrainian courts may expropriate assets of the sanctioned persons whose property was blocked by the NSDC after 24 May 2022, if such sanctioned individuals pose a significant threat to the national security, sovereignty or territorial integrity of Ukraine, or facilitate such actions being committed by other persons, e.g., financing armed aggression against Ukraine by doing the following:

1. *Paying taxes and duties to Russia*
2. *Making donations, charity contributions, sponsorships, etc.*
3. *Investing in Russian governmental bonds, etc.*



# Ukrainian Developments

Non-government-controlled areas



## Status differences

(1) Territories of active hostilities

(2) Temporarily occupied territories



Any supply of goods, services and works from Russia into these territories may result in criminal liability, including for collaborationism.





**Q&A**

**Neil Wilely, UK Finance**

The background features a gradient from dark blue to teal. A large white shape, resembling a speech bubble or a stylized question mark, is positioned on the left side. The word "Questions" is written in bold black text within this white shape.

**Questions**

**The great escape:  
winding down Russian  
business and  
managing litigation  
risks**

Wednesday 27 September

2.00 - 3.15 pm BST

3.00 - 4.15 pm CEST

9.00 - 10.15 am EDT

**Tomorrow's sessions**

**Downsize this: mitigating  
risks and managing costs in  
global sanctions and export  
control investigations**

Wednesday 27 September

3.45 - 4.45 pm BST

4.45 - 5.45 pm CEST

10.45 - 11.45 am EDT

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