

Mahesh Madhavan
Chief Executive Officer
Bacardi Limited
Hamilton, 65
Pitts Bay Road,
Bermuda

August 18, 2023

RE: Bacardi's business operations in Russia

Dear Mr. Madhavan,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs).

We are writing to formally notify Bacardi on the serious and increasing risks the company faces by continuing its operations with Russia that may amount to complicity in human rights abuses committed by Russia and to urge Bacardi to:

- Immediately cease all operations and presence in Russia and completely exit the Russian market.
- Refrain from any future business, trade, or investment in Russia until Russia ends its war in Ukraine, territorial integrity of Ukraine is restored, and accountability imposed for war crimes and the destruction of Ukrainian infrastructure and property.
- Establish and implement comprehensive human rights due diligence measures for any responsible exit from or re-engagement with Russia.

It has been over one year since Russia invaded Ukraine and the devastating impacts continue to shock the global conscience and shake the global economy. Russia is violating international humanitarian law (IHL), including war crimes and crimes against humanity, through attacks on civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians). More than 25,000 Ukrainian civilians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges.¹

¹ International Criminal Court, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (accessed March 22, 2023).

Moreover, recent developments in Russia point to an expanding universe of financial, legal, and reputational risks facing those left behind.

On September 21, President Vladimir Putin escalated the war by announcing a “partial mobilisation” of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the more than 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.² They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

A new decree issued by President Vladimir Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and implement external management in companies that don't fulfil state defence contracts under conditions of martial law.³ By specifying the process of appointing Russian government representatives to manage businesses that fail to meet state orders, the latest Decree effectively creates a scenario of "partial nationalization." The latest information indicates that the Kremlin is introducing further legislation that would make the measures to fully nationalise assets of foreign companies not adhering to Putin's rules even more draconian. Some indicate that the “nationalisation is inevitable.”⁴

With new legislation introducing partial mobilisation, nationalisation, and potentially martial law in Russia, it is highly likely that corporations will be unable to prevent or mitigate negative human rights impacts, an obligation imposed on companies by the United Nations Guiding Principles on Business and Human Rights. As such, continuing to conduct business in Russia entails significant legal risks for companies, including potential civil and criminal liability under comprehensive sanctions regimes and recent international jurisprudence holding corporations and their officers responsible for human rights abuses abroad.⁵ Companies face the rising risk of criminal liability for complicity in

² Federal Law No. 31-FZ of February 26, 1997 "On mobilization training and mobilization in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed November 14, 2022).

³ Decree of the President of the Russian Federation No. 139 dated March 3, 2023 "On Certain Issues of Carrying Out the Activities of Business Companies Participating in the Fulfilment of the State Defense Order", <http://publication.pravo.gov.ru/Document/View/0001202303030004> (accessed March 22, 2023).

⁴ Max Seddon and Anastasia Stognei, “Russia moves to seize ‘naughty’ western companies,” *Financial Times*, June 15, 2023, <https://www.ft.com/content/cd627211-68f6-4dfa-8a04-3344deee2e85> (accessed June 15, 2023).

⁵ International companies remaining in Russia are now at a greater risk of violating sanctions regimes as implementation of the legislation will likely involve transacting with sanctioned individuals or entities. Furthermore, new domestic civil and criminal cases against companies involved in violations of international law demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g., Lafarge case, Lundin case, Castel Group indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) Victoria Riello and Larissa Furtwengler, “Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward,” *Just Security*, September 6, 2021, <https://www.justsecurity.org/78097/corporate-criminal-liability-for-human-rights-violations-france-and-sweden-are-poised-to-take-historic-steps-forward/> (accessed November 14, 2022); The Sentry, “Breaking: France Opens War Crimes Inquiry Focused on Iconic Food and Beverage Conglomerate,” July 1, 2022, <https://thesentry.org/2022/07/01/7216/breaking-france-opens-war-crimes-inquiry-focused-iconic-food-beverage-conglomerate/> (accessed November 14, 2022); *Rfi*, “French technology firm charged over Libya cyber-spying,” July 2, 2022, <https://www.rfi.fr/en/business-and-tech/20210701-french-tech-firm-charged-over-libya-cyber-spying> (accessed November 14, 2022); Preston Lim, “Canadian Supreme Court Allows Corporate Liability for International Law Violations,” *Lawfare*, March 12, 2022, <https://www.lawfareblog.com/canadian-supreme-court-allows-corporate-liability-international-law-violations> (accessed November 14, 2022); Sherpa, “Aiding and abetting war crimes in Yemen: Criminal complaint

international crimes, which can be prosecuted by domestic courts outside Russia under the doctrine of "universal jurisdiction."⁶

On 24 February 2023, The Financial Action Task Force (FATF) suspended Russia's membership as a result of the war, calling on all actors in the international financial system to exercise extreme caution in all dealings with Russia.⁷ In practice, the decision means that all international banks will scrutinise all Russian payments, making financial transactions more expensive, lengthy, with no guarantee that the transaction will occur at all.⁸ Although FATF has not yet blacklisted Russia, it highlighted the consensus among its 36 member countries that "the Russian federation's actions represent a gross violation of the commitment to international cooperation upon which FATF Members have agreed to implement and support the FATF Standards."⁹ Previous practice shows that noncooperative behaviour is one of the reasons for FATF blacklisting.

A recent report shows that Russia poses a "real threat to global financial integrity, as well as to national security more broadly."¹⁰ Additionally, the revelation by the Russian president confirming that the internationally recognized transnational criminal organization known as the "Wagner Group" is funded by the Russian government has brought to light a range of alarming risks related to money laundering, terrorist financing, and other financial crimes for businesses involved in or working with Russia.¹¹ It is now a distinct possibility that businesses continuing to trade with Russia may be providing financial support to the Wagner Group, a notorious paramilitary organization.

Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.¹²

Additionally, the Ukrainian government's [National Agency on Corruption Prevention](#) (NACP) is creating a list of "foreign companies that, despite the international recognition of Russia as the

submitted against French arms companies," June 2, 2022, <https://www.asso-sherpa.org/aiding-and-abetting-war-crimes-in-yemen-criminal-complaint-submitted-against-french-arms-companies> (accessed November 14, 2022).

⁶ For example, ongoing proceedings in the US and France against the French multinational Lafarge for complicity in human rights violations in Syria. The Paris Court of Appeal, "La Cour d'appel de Paris confirme la mise en état de la multinationale française Lafarge pour complicité de crimes contre l'humanité commis par l'Etat islamique," May 18, 2022, <https://www.doughtystreet.co.uk/sites/default/files/media/document/Press%20release%20french%20version.pdf> (accessed March 22, 2023); United States Attorney's Office, Eastern District of New York, "Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations," October 18, 2022, <https://www.justice.gov/usao-edny/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terroris> (accessed March 22, 2023).

⁷ FATF, "FATF Statement on the Russian Federation," February 24, 2023, <https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation.html> (accessed March 14, 2023).

⁸ Liudmyla Sliptsova, "Russia's membership in the FATF suspended. What does this mean and how ruinous is this for the aggressor's economy?," *Mind*, February 27, 2023, <https://mind.ua/en/publications/20253993-russias-membership-in-the-fatf-suspended-what-does-this-mean-and-how-ruinous-is-this-for-the-aggre> (accessed March 14, 2023).

⁹ FATF (n 7).

¹⁰ Themis, "Russia; Country Risk Report," June 2023, <https://themisservices.co.uk/country-risk-report-russia> (accessed June 26, 2023).

¹¹ Telegram, "Встреча Путина с военными и его заявления по поводу ЧВК "Вагнер," June 27, 2023, https://t.me/rian_ru/207202 (accessed July 3, 2023).

¹² Venable LLP, "Do You Contract with State Governments? If So, Beware of Emerging State Sanctions' Obligations Related to Russia and Belarus," *JD Supra*, June 3, 2022, <https://www.jdsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed November 14, 2022).

aggressor state and the introduced sanctions restrictions, continue to cooperate with it.”¹³ These companies are recognised as international sponsors of war. The listed entities will be included into the World-Check database to protect the global financial sector from Russian sponsors of war. Since banks and insurance companies use World-check to assess risks, companies on the list will be limited in freely accessing personal and corporate finances. So far there are 33 companies on the list, with the NACP noting that the list includes “international companies that provide the public and private sector with goods and services of critical purpose, as well as [those that] contribute to the Russian budget.”¹⁴ As you are aware, Bacardi, as well as three members of the company’s senior leadership, are included in the list as sponsors of war.¹⁵

Companies that maintain business relationships with Russia risk being perceived as supporting Russia’s war effort. This could have a negative long-term impact on sales in other countries and attract investor scrutiny over adherence to ESG principles. The longer it takes for brands to extricate themselves from the situation, the more damaging it will be for their reputation.

In response to this unprovoked and unjustified war¹⁶ many other companies have already left Russia. According to the Kyiv School of Economics Institute’s #LeaveRussia [company tracker](#), Bacardi has decided to stay and continue its operations in Russia.

Considering these risks and the company’s continued presence in Russia, we would like to pose the following questions to Bacardi:

1. In March 2022, Bacardi announced that its “priority is to ensure the safety and wellbeing of our people, especially those directly affected by the ongoing war in Ukraine.”¹⁷ In a now deleted part of the statement,¹⁸ Bacardi pledged to leave the Russian market, stop exporting alcohol to Russia and freeze investments in advertising.¹⁹ However, Bacardi reneged on this promise and continued its business in Russia as usual in a time where other companies such as Diageo and Pernod Ricard have scaled back their operations or withdrew from the Russian market.

-Can Bacardi explain the discrepancies between its initial pledge to stop exporting alcohol to Russian and freeze investments in advertising with its subsequent actions that are in clear contradiction with this promise?

¹³ NACP, “International Sponsors of War,” <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 6, 2023).

¹⁴ NACP, “Companies from the NACP list of “International Sponsors of War” are now in the World-check database, used worldwide for reviewing counterparties,” September 7, 2022, <https://nazk.gov.ua/en/news/companies-from-the-nacp-list-of-international-sponsors-of-war-are-now-in-the-world-check-database-used-worldwide-for-reviewing-counterparties/?hilite=sponsor+of+war> (accessed February 6, 2023).

¹⁵ NACP, “Bacardi – International Sponsor of War,” <https://sanctions.nazk.gov.ua/en/boycott/1010/> (accessed August 18, 2023).

¹⁶ The UN General Assembly condemned Russia’s “aggression against Ukraine” and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

¹⁷ Bacardi, “Bacardi response & support for Ukraine,” March 2022, <https://www.bacardilimited.com/bacardi-response-support-for-ukraine> (accessed August 18, 2023).

¹⁸ The original statement contained the sentence: “*In addition, we paused exports to Russia and froze advertising investments in the market.*” Internet Archive, <https://web.archive.org/web/20221210055356/https://www.bacardilimited.com/bacardi-response-support-for-ukraine/> (accessed August 18, 2023).

¹⁹ Olena Kovalenko, “Instead of leaving the Russian Federation, the global alcohol producer tripled its profit,” Unian, June 28, 2023, <https://www.unian.ua/economics/finance/bacardi-obicyav-zalishiti-rosiyskiy-rinok-ale-zamist-cogo-zbilshiv-pributok-vtrichi-12310590.html> (

-Which stakeholders has Bacardi engaged with in determining its policies and the decision to stay in the market?

-Has Bacardi considered all the circumstances and complexities of the Russo-Ukrainian war, including numerous human rights violations and war crimes committed in Ukraine, as well as the fact that Russia is an aggressor state, in determining to continue providing its goods to Russia?

2. Reports show that Bacardi, instead of scaling down its operations, experienced a “financial bonanza.” The Russia’s Federal Tax Service website confirms the report: “compared with 2021, the fixed assets held by Bacardi Rus in 2022 increased in value from from 57 million rubles to 850 million rubles. The firm’s revenue ticked up from 30.1 billion rubles to 32.6 billion rubles and net profits tripled to almost 4.7 billion rubles.”²⁰

Bacardi is exporting its products to Russia via its own subsidiary using bills of entry with long validity periods. Furthermore, according to Rosalkogolregulirovaniya Bacardi Rus has registered 37 new goods since the invasion.²¹ Bacardi found additional profitability in Russia from a bottling contract with the Beluga Group agreeing to bottle whisky.²²

Contradictory to its original statements, Bacardi Rus spent 6.7 billion rubles on commercial expenses last year, continuing to invest in marketing in both drinking venues and retail, opening its own bar in Moscow, and offering branded Martini promotional materials.²³ Bacardi products are also available in the Russian occupied Ukrainian territories of Crimea, Donetsk, and Luhansk. Considering its considerable position in the Russian economy, Bacardi is also a significant taxpayer in Russia. This could make the company indirectly involved in financing Russian aggression since corporate taxes help fund Russia’s military budget. Therefore, taxes paid by companies who stay in Russia indirectly contribute to the war.

-How much tax in total has Bacardi paid in Russia in 2022 and 2023?

-Can Bacardi confirm that it has tripled its net profit, increased the value of its fixed assets, and increased its revenue by 2.5 billion rubles since the start of the invasion?

3. Due to continuing such significant operations in Russia 17 months into the brutal invasion of Ukraine, the NACP has placed Bacardi on its list of companies which are recognised as international sponsors of war.

-How does Bacardi comment on its human rights due diligence practices and risk assessment policies that have led to the company being named a sponsor of war?

-Can Bacardi confirm that it is aware that it is continuing its business operations within an aggressor state and the human rights responsibilities that this entails?

4. As a reminder, Bonduelle and Auchan have recently faced significant backlash because their goods were sent to Russian troops in Ukraine, some with notes wishing "a speedy victory."²⁴ Both companies deny these allegations.

²⁰ The Bell, “Bacardi reneges on promise to quit Russia, sees profits triple,” June 30, 2023, <https://en.thebell.io/bacardi-reneges-on-promise-to-quit-russia-sees-profits-triple/> (accessed August 18, 2023).

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Euromaidan Press, “Bonduelle accused of gifting 10,000 food kits to Russian troops; French office denies,” January 3, 2023, <https://euromaidanpress.com/2023/01/03/french-bonduelle-gifts-10000-food-kits-to-russian-troops-wishes-them-victory/> (accessed May 4, 2023); Business and Human Rights Resource Centre, “New evidence reveals Auchan was fully aware of destination of its goods supplied to Russian army,” March 3, 2023, <https://www.business-humanrights.org/en/latest-news/russia-auchan-allegedly-supports-soldiers-fighting-in-ukraine-despite-french-management-denials-recent-investigation-reveals-more-proofs/> (accessed May 4, 2023).

-How has Bacardi practised due diligence in preventing the direct supply of its products to the Russian military?

-Does Bacardi have policies, mechanisms, and tools in place to carry out enhanced due diligence of supply chains, intermediaries, customers, and end-users to prevent the supply of goods to the Russian army?

-If so, how were they utilised for defining business connections that involve the Russian government, its agencies, and state-controlled or sanctioned organisations?

5. We understand that Bacardi has obligations towards its Russian employees. These obligations are laid out under the UNGPs and in the wider international human rights legal and regulatory framework.

-Can Bacardi clarify how it has used this framework to minimise the risks and impacts to its employees?

-How has the company applied heightened human rights due diligence to its operations in Russia considering the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required?

-Has Bacardi received any such requests, and if so, how has the company responded to them?

-What is Bacardi doing to safeguard its employees from mobilisation?

-Have any of your employees been mobilised and, if so, what was Bacardi's role in the process?

6. Despite Bacardi's initial promise to scale back its operations and suspend all advertising activities in Russia, the company "continues to hire employees for its Russian team since the beginning of the war, and also advertises new vacancies both locally and on LinkedIn."²⁵

-How does Bacardi reconcile its statements on scaling back its operations with ongoing employment opportunities in Russia?

-How does Bacardi reconcile its statements on employee wellbeing with continued employment opportunities in light of the new Russian legislation obliging companies to help with the military conscription of its employees?

-How does Bacardi comment on its responsibility towards its Ukrainian employees whose lives and livelihoods were endangered by Russia's continuous attacks?

7. Bacardi boasts an impressive portfolio of globally recognized brands. By choosing to continue operating in Russia, the company inadvertently grants the regime a sense of legitimacy and approval. By leveraging the power and reputation of its brands, Bacardi indirectly expresses support for the regime's actions, which could be interpreted as condoning the war. The continued presence of Bacardi's brands in the Russian market creates a perceived association between the company and its widely known brands and the Russian government, which may not align with the values of its customers.

-How is Bacardi ensuring that it does not align itself and the names of its brands with the war and the Putin regime?

8. Other companies have faced legal, administrative, and ethical challenges and still committed to, and exited, Russia. Bacardi has decided to stay in the country, even after over one year since the start of the war, over 100,000 reported war crimes, over 25,000 Ukrainian civilians killed or

²⁵ Oleksiy Pavlysh, "Alcohol manufacturer Bacardi continues to develop business in the Russian Federation and hires new employees - WSJ," *Economic Truth*, August 9, 2023, <https://www.epravda.com.ua/news/2023/08/9/703039/> (accessed August 18, 2023).

injured, and with the head of the Russian state indicted by the International Criminal Court for alleged war crimes, namely the abduction of Ukrainian children.

-Considering these developments and the rising number of reported human rights abuses and war crimes, has Bacardi considered fully exiting Russia so as not to be even indirectly or remotely associated with these crimes?

We request an urgent dialogue with Bacardi's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia and associated risks to the people of Ukraine and the company. Please contact the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, September 1st, 2023.

Sincerely,

The B4Ukraine Coalition